

AMENDED IN ASSEMBLY JULY 9, 2015

AMENDED IN SENATE JUNE 2, 2015

SENATE BILL

No. 794

**Introduced by Committee on Human Services (Senators McGuire
(Chair), Berryhill, Hancock, Liu, and Nguyen)**

March 3, 2015

An act to *amend Section 7950 of the Family Code*, to add Section 1522.44 to the Health and Safety Code, to amend Sections 11165.1 and 11166 of the Penal Code, and to amend Sections 309, 362.04, 362.05, 362.1, 366, 366.1, 366.21, 366.22, 366.25, 366.26, 366.3, 366.31, 706.5, 706.6, 727.2, 727.3, 10618.6, 11386, 16002, 16003, 16118, 16131, 16131.5, and 16501.1 of, and to add Sections ~~16501.4 and 16501.45~~ 16501.4, 16501.45, and 16519.51 to, the Welfare and Institutions Code, relating to child welfare.

LEGISLATIVE COUNSEL'S DIGEST

SB 794, as amended, Committee on Human Services. Child welfare services.

(1) Existing law establishes a system of statewide child welfare services, administered by the State Department of Social Services and county child welfare agencies, with the intent that all children are entitled to be safe and free from abuse and neglect.

This bill would require county child welfare agencies, by September 30, 2016, to develop and implement policies and procedures to identify, document, and determine appropriate services for children and youth who are receiving child welfare services pursuant to federal law and are, or are at risk of becoming, victims of commercial sexual exploitation. The bill would also require county child welfare agencies, by July 1, 2016, to develop and implement specific protocols to

expeditiously locate any child missing from foster care, as specified. By imposing these requirements on county agencies, this bill would impose a state-mandated local program.

(2) Under existing law, a county social worker develops a case plan that, among other things, identifies the child welfare services that will be provided to a minor or nonminor dependent. Existing law requires the county child welfare agency to give the child a meaningful opportunity to participate in the development of the case plan.

This bill would require county child welfare agencies to develop case plans for youth 14 years of age or older and nonminor dependents in consultation with the youth, and would authorize each youth to choose up to 2 members of the case planning team, as specified. The bill would require that case plans for these youth include a description of specified rights and entitlements, as well as an acknowledgment signed by each youth that he or she was provided with this information. The bill would also require the case plan for a child or nonminor dependent who is, or who is at risk of becoming, the victim of commercial sexual exploitation, to document the services provided to address that issue. By imposing these case planning requirements on county child welfare agencies, this bill would impose a state-mandated local program.

(3) Existing law requires a caregiver of a dependent child to use a reasonable and prudent parent standard in determining whether to give permission for a child residing in foster care to participate in extracurricular, enrichment, and social activities.

This bill would require that training for *various categories of* caregivers include knowledge and skills relating to the reasonable and prudent parent standard for participation in age or developmentally appropriate activities. The bill would also require each licensed community care facility that provides care and supervision to children, except licensed foster family homes and certified family homes, to designate at least one onsite staff member to apply the reasonable and prudent parent standard to decisions involving the participation of the child in age or developmentally appropriate activities. To the extent this bill would impose foster parent training requirements on counties, the bill would impose a state-mandated local program.

(4) Existing law requires a county welfare department, county probation department, or the State Department of Social Services to annually obtain a credit report, as specified, for a child in foster care who is 16 years of age or older.

This bill would require that these services be provided to a child in foster care who is 14 years of age or older. By increasing the level of service provided by counties, the bill would impose a state-mandated local program.

(5) Existing law requires the State Department of Social Services to implement a statewide Child Welfare Services/Case Management System to effectively administer and evaluate the state's child welfare services and foster care programs.

This bill would require the department to ensure that the Child Welfare Services/Case Management System is capable of collecting specified information relating to the number of foster children who are, or are at risk of becoming, victims of commercial sexual exploitation.

(6) The Child Abuse and Neglect Reporting Act makes certain persons mandated reporters, and requires those persons to report to a police department, sheriff's department, county probation department, or the county welfare department whenever he or she knows or reasonably suspects that a child has been the victim of child abuse or neglect, as specified. Existing law requires the county probation or welfare department to immediately, or as soon as practicably possible, report to the law enforcement agency having jurisdiction over the case, to the agency given the responsibility for investigation of cases of child abuse and neglect, and to the district attorney's office every known or suspected instance of child abuse or neglect.

This bill would additionally require the county probation or welfare department to immediately, or in no case later than 24 hours from receipt of the information, report to the law enforcement agency having jurisdiction over the case any known or suspected instance of child abuse involving an allegation of sexual exploitation, as defined, of a child or youth receiving child welfare services. The bill would also require the county probation or welfare department to make a report to the appropriate law enforcement authority for entry into the National Crime Information Center database of the Federal Bureau of Investigation and to the National Center for Missing and Exploited Children within 24 hours of becoming aware that a child or youth who is receiving child welfare services and who is known or suspected to be the victim of sexual exploitation is missing or has been abducted. By increasing the duties of county probation and welfare departments, this bill would impose a state-mandated local program.

(7) Existing law establishes the Adoption Assistance Program for the purpose of benefiting children residing in foster homes by providing

the stability and security of permanent homes. Existing law requires that any savings realized from the change in federal funding for adoption assistance resulting from the enactment of the federal Fostering Connections to Success and Increasing Adoptions Act of 2008 be spent for the provision of foster care and adoption services.

This bill would require that at least 30% of that savings be spent on postadoption services, postguardianship services, and services to support and sustain positive permanent outcomes for children who might enter foster care, as specified.

(8) The Kinship Guardianship Assistance Payment for Children (Kin-GAP) Program provides financial assistance to children who are eligible for foster care maintenance payments and are placed in legal guardianship with a relative. Under existing law, termination of the guardianship terminates eligibility for Kin-GAP, unless an alternate kinship guardian or coguardian is appointed, as provided.

This bill would instead provide that if a successor kinship guardian is appointed, the successor guardian is entitled to receive Kin-GAP on behalf of the child if the reason for the appointment is the death or incapacity of the kinship guardian and the successor guardian is named in the kinship guardianship assistance agreement.

(9) *Existing federal law, the Adoption and Safe Families Act of 1997, among other provisions, establishes a permanent placement option for older children as an alternative to long-term foster care, referred to in the act as “another planned permanent living arrangement” (APPLA). Existing law declares the intent of the Legislature to conform state law to the federal act, as specified.*

This bill would revise various provisions relating to foster care and the placement of dependent children and wards of the juvenile court, to delete references to long-term foster care and instead to provide a minor 16 years of age and older, under certain circumstances, with another planned permanent living arrangement, as prescribed. The bill would require the court conducting the permanency hearing to make specified findings in this regard. The bill also would impose additional requirements on the county social worker or probation officer preparing the case plan. By imposing new duties on county social workers and probation officers, the bill would impose a state-mandated local program.

(9)

(10) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.

State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 7950 of the Family Code is amended to
2 read:

3 7950. (a) With full consideration for the proximity of the
4 natural parents to the placement so as to facilitate visitation and
5 family reunification, when a placement in foster care is being
6 made, the following considerations shall be used:

7 (1) Placement shall, if possible, be made in the home of a
8 relative, unless the placement would not be in the best interest of
9 the child. Diligent efforts shall be made by an agency or entity to
10 which this subdivision applies, to locate an appropriate relative,
11 as defined in paragraph (2) of subdivision (f) of Section 319 of the
12 Welfare and Institutions Code. Before any child may be placed in
13 long-term foster care, the court shall find that the agency or entity
14 to which this subdivision applies has made diligent efforts to locate
15 an appropriate relative and that each relative whose name has been
16 submitted to the agency or entity as a possible caretaker, either by
17 himself or herself or by other persons, has been evaluated as an
18 appropriate placement resource.

19 (2) No agency or entity that receives any state assistance and is
20 involved in foster care placements may do either of the following:

21 (A) Deny to any person the opportunity to become a foster
22 parent on the basis of the race, color, or national origin of the
23 person or the child involved.

24 (B) Delay or deny the placement of a child into foster care on
25 the basis of the race, color, or national origin of the foster parent
26 or the child involved.

27 (b) Subdivision (a) shall not be construed to affect the
28 application of the Indian Child Welfare Act (25 U.S.C. Sec. 1901
29 and following).

(c) Nothing in this section precludes a search for an appropriate relative being conducted simultaneously with a search for a foster family.

~~SECTION 1.~~

SEC. 2. Section 1522.44 is added to the Health and Safety Code, to read:

1522.44. (a) It is the policy of the state that caregivers of children in foster care possess knowledge and skills relating to the reasonable and prudent parent standard, as defined in subdivision (c) of Section 362.05 of the Welfare and Institutions Code.

(b) Except for licensed foster family homes and certified family homes, each licensed community care facility that provides care and supervision to children and operates with staff shall designate at least one onsite staff member to apply the reasonable and prudent parent standard to decisions involving the participation of ~~the child~~ *a child who is placed in the facility* in age or developmentally appropriate activities in accordance with the requirements of Section 362.05 of the Welfare and Institutions Code, Section 671(a)(10) of Title 42 of the United States Code, and the regulations adopted by the department pursuant to this chapter.

(c) A licensed and certified foster parent or facility staff member, as described in subdivision (b), shall receive training related to the reasonable and prudent parent standard that is consistent with Section 671(a)(24) of Title 42 of the United States Code. This training ~~shall be included in the training requirements set forth in Section 1529.2.~~ *include knowledge and skills relating to the reasonable and prudent parent standard for the participation of the child in age or developmentally appropriate activities, including knowledge and skills relating to the developmental stages of the cognitive, emotional, physical, and behavioral capacities of a child, and knowledge and skills relating to applying the standard to decisions such as whether to allow the child to engage in extracurricular, enrichment, cultural, and social activities, including sports, field trips, and overnight activities lasting one or more days, and to decisions involving the signing of permission slips and arranging of transportation for the child to and from extracurricular, enrichment, and social activities.*

(d) This section does not apply to runaway and homeless youth shelters as defined in paragraph (14) of subdivision (a) of Section 1502.

1 ~~SEC. 2.~~

2 *SEC. 3.* Section 11165.1 of the Penal Code is amended to read:

3 11165.1. As used in this article, “sexual abuse” means sexual
4 assault or sexual exploitation as defined by the following:

5 (a) “Sexual assault” means conduct in violation of one or more
6 of the following sections: Section 261 (rape), subdivision (d) of
7 Section 261.5 (statutory rape), Section 264.1 (rape in concert),
8 Section 285 (incest), Section 286 (sodomy), subdivision (a) or (b),
9 or paragraph (1) of subdivision (c) of Section 288 (lewd or
10 lascivious acts upon a child), Section 288a (oral copulation),
11 Section 289 (sexual penetration), or Section 647.6 (child
12 molestation).

13 (b) Conduct described as “sexual assault” includes, but is not
14 limited to, all of the following:

15 (1) Penetration, however slight, of the vagina or anal opening
16 of one person by the penis of another person, whether or not there
17 is the emission of semen.

18 (2) Sexual contact between the genitals or anal opening of one
19 person and the mouth or tongue of another person.

20 (3) Intrusion by one person into the genitals or anal opening of
21 another person, including the use of an object for this purpose,
22 except that, it does not include acts performed for a valid medical
23 purpose.

24 (4) The intentional touching of the genitals or intimate parts,
25 including the breasts, genital area, groin, inner thighs, and buttocks,
26 or the clothing covering them, of a child, or of the perpetrator by
27 a child, for purposes of sexual arousal or gratification, except that
28 it does not include acts which may reasonably be construed to be
29 normal caretaker responsibilities; interactions with, or
30 demonstrations of affection for, the child; or acts performed for a
31 valid medical purpose.

32 (5) The intentional masturbation of the perpetrator’s genitals in
33 the presence of a child.

34 (c) “Sexual exploitation” refers to any of the following:

35 (1) Conduct involving matter depicting a minor engaged in
36 obscene acts in violation of Section 311.2 (preparing, selling, or
37 distributing obscene matter) or subdivision (a) of Section 311.4
38 (employment of minor to perform obscene acts).

39 (2) A person who knowingly promotes, aids, or assists, employs,
40 uses, persuades, induces, or coerces a child, or a person responsible

1 for a child's welfare, who knowingly permits or encourages a child
2 to engage in, or assist others to engage in, prostitution or a live
3 performance involving obscene sexual conduct, or to either pose
4 or model alone or with others for purposes of preparing a film,
5 photograph, negative, slide, drawing, painting, or other pictorial
6 depiction, involving obscene sexual conduct, or who sexually
7 trafficks a child, as described in subdivision (c) of Section 236.1,
8 or commercially sexually exploits a child, as described in paragraph
9 (2) of subdivision (b) of Section 300 of the Welfare and Institutions
10 Code. *conduct.* For the purpose of this section, "person responsible
11 for a child's welfare" means a parent, guardian, foster parent, or
12 a licensed administrator or employee of a public or private
13 residential home, residential school, or other residential institution.

14 (3) A person who depicts a child in, or who knowingly develops,
15 duplicates, prints, downloads, streams, accesses through any
16 electronic or digital media, or exchanges, a film, photograph,
17 videotape, video recording, negative, or slide in which a child is
18 engaged in an act of obscene sexual conduct, except for those
19 activities by law enforcement and prosecution agencies and other
20 persons described in subdivisions (c) and (e) of Section 311.3.

21 (4) *"Commercial sexual exploitation" refers to either of the*
22 *following:*

23 (1) *The sexual trafficking of a child, as described in subdivision*
24 *(c) of Section 236.1.*

25 (2) *The provision of food, shelter, or payment to a child in*
26 *exchange for the performance of any sexual act described in this*
27 *section or subdivision (c) of Section 236.1.*

28 ~~SEC. 3.~~

29 *SEC. 4.* Section 11166 of the Penal Code is amended to read:

30 11166. (a) Except as provided in subdivision (d), and in
31 Section 11166.05, a mandated reporter shall make a report to an
32 agency specified in Section 11165.9 whenever the mandated
33 reporter, in his or her professional capacity or within the scope of
34 his or her employment, has knowledge of or observes a child whom
35 the mandated reporter knows or reasonably suspects has been the
36 victim of child abuse or neglect. The mandated reporter shall make
37 an initial report by telephone to the agency immediately or as soon
38 as is practicably possible, and shall prepare and send, fax, or
39 electronically transmit a written followup report within 36 hours
40 of receiving the information concerning the incident. The mandated

1 reporter may include with the report any nonprivileged
2 documentary evidence the mandated reporter possesses relating
3 to the incident.

4 (1) For purposes of this article, “reasonable suspicion” means
5 that it is objectively reasonable for a person to entertain a suspicion,
6 based upon facts that could cause a reasonable person in a like
7 position, drawing, when appropriate, on his or her training and
8 experience, to suspect child abuse or neglect. “Reasonable
9 suspicion” does not require certainty that child abuse or neglect
10 has occurred nor does it require a specific medical indication of
11 child abuse or neglect; any “reasonable suspicion” is sufficient.
12 For purposes of this article, the pregnancy of a minor does not, in
13 and of itself, constitute a basis for a reasonable suspicion of sexual
14 abuse.

15 (2) The agency shall be notified and a report shall be prepared
16 and sent, faxed, or electronically transmitted even if the child has
17 expired, regardless of whether or not the possible abuse was a
18 factor contributing to the death, and even if suspected child abuse
19 was discovered during an autopsy.

20 (3) A report made by a mandated reporter pursuant to this
21 section shall be known as a mandated report.

22 (b) If, after reasonable efforts, a mandated reporter is unable to
23 submit an initial report by telephone, he or she shall immediately
24 or as soon as is practicably possible, by fax or electronic
25 transmission, make a one-time automated written report on the
26 form prescribed by the Department of Justice, and shall also be
27 available to respond to a telephone followup call by the agency
28 with which he or she filed the report. A mandated reporter who
29 files a one-time automated written report because he or she was
30 unable to submit an initial report by telephone is not required to
31 submit a written followup report.

32 (1) The one-time automated written report form prescribed by
33 the Department of Justice shall be clearly identifiable so that it is
34 not mistaken for a standard written followup report. In addition,
35 the automated one-time report shall contain a section that allows
36 the mandated reporter to state the reason the initial telephone call
37 was not able to be completed. The reason for the submission of
38 the one-time automated written report in lieu of the procedure
39 prescribed in subdivision (a) shall be captured in the Child Welfare
40 Services/Case Management System (CWS/CMS). The department

1 shall work with stakeholders to modify reporting forms and the
2 CWS/CMS as is necessary to accommodate the changes enacted
3 by these provisions.

4 (2) This subdivision shall not become operative until the
5 CWS/CMS is updated to capture the information prescribed in this
6 subdivision.

7 (3) This subdivision shall become inoperative three years after
8 this subdivision becomes operative or on January 1, 2009,
9 whichever occurs first.

10 (4) On the inoperative date of these provisions, a report shall
11 be submitted to the counties and the Legislature by the State
12 Department of Social Services that reflects the data collected from
13 automated one-time reports indicating the reasons stated as to why
14 the automated one-time report was filed in lieu of the initial
15 telephone report.

16 (5) Nothing in this section shall supersede the requirement that
17 a mandated reporter first attempt to make a report via telephone,
18 or that agencies specified in Section 11165.9 accept reports from
19 mandated reporters and other persons as required.

20 (c) A mandated reporter who fails to report an incident of known
21 or reasonably suspected child abuse or neglect as required by this
22 section is guilty of a misdemeanor punishable by up to six months
23 confinement in a county jail or by a fine of one thousand dollars
24 (\$1,000) or by both that imprisonment and fine. If a mandated
25 reporter intentionally conceals his or her failure to report an
26 incident known by the mandated reporter to be abuse or severe
27 neglect under this section, the failure to report is a continuing
28 offense until an agency specified in Section 11165.9 discovers the
29 offense.

30 (d) (1) A clergy member who acquires knowledge or a
31 reasonable suspicion of child abuse or neglect during a penitential
32 communication is not subject to subdivision (a). For the purposes
33 of this subdivision, "penitential communication" means a
34 communication, intended to be in confidence, including, but not
35 limited to, a sacramental confession, made to a clergy member
36 who, in the course of the discipline or practice of his or her church,
37 denomination, or organization, is authorized or accustomed to hear
38 those communications, and under the discipline, tenets, customs,
39 or practices of his or her church, denomination, or organization,
40 has a duty to keep those communications secret.

1 (2) Nothing in this subdivision shall be construed to modify or
2 limit a clergy member's duty to report known or suspected child
3 abuse or neglect when the clergy member is acting in some other
4 capacity that would otherwise make the clergy member a mandated
5 reporter.

6 (3) (A) On or before January 1, 2004, a clergy member or any
7 custodian of records for the clergy member may report to an agency
8 specified in Section 11165.9 that the clergy member or any
9 custodian of records for the clergy member, prior to January 1,
10 1997, in his or her professional capacity or within the scope of his
11 or her employment, other than during a penitential communication,
12 acquired knowledge or had a reasonable suspicion that a child had
13 been the victim of sexual abuse and that the clergy member or any
14 custodian of records for the clergy member did not previously
15 report the abuse to an agency specified in Section 11165.9. The
16 provisions of Section 11172 shall apply to all reports made pursuant
17 to this paragraph.

18 (B) This paragraph shall apply even if the victim of the known
19 or suspected abuse has reached the age of majority by the time the
20 required report is made.

21 (C) The local law enforcement agency shall have jurisdiction
22 to investigate any report of child abuse made pursuant to this
23 paragraph even if the report is made after the victim has reached
24 the age of majority.

25 (e) (1) A commercial film, photographic print, or image
26 processor who has knowledge of or observes, within the scope of
27 his or her professional capacity or employment, any film,
28 photograph, videotape, negative, slide, or any representation of
29 information, data, or an image, including, but not limited to, any
30 film, filmstrip, photograph, negative, slide, photocopy, videotape,
31 video laser disc, computer hardware, computer software, computer
32 floppy disk, data storage medium, CD-ROM, computer-generated
33 equipment, or computer-generated image depicting a child under
34 16 years of age engaged in an act of sexual conduct, shall,
35 immediately or as soon as practicably possible, telephonically
36 report the instance of suspected abuse to the law enforcement
37 agency located in the county in which the images are seen. Within
38 36 hours of receiving the information concerning the incident, the
39 reporter shall prepare and send, fax, or electronically transmit a

1 written followup report of the incident with a copy of the image
2 or material attached.

3 (2) A commercial computer technician who has knowledge of
4 or observes, within the scope of his or her professional capacity
5 or employment, any representation of information, data, or an
6 image, including, but not limited to, any computer hardware,
7 computer software, computer file, computer floppy disk, data
8 storage medium, CD-ROM, computer-generated equipment, or
9 computer-generated image that is retrievable in perceivable form
10 and that is intentionally saved, transmitted, or organized on an
11 electronic medium, depicting a child under 16 years of age engaged
12 in an act of sexual conduct, shall immediately, or as soon as
13 practicably possible, telephonically report the instance of suspected
14 abuse to the law enforcement agency located in the county in which
15 the images or materials are seen. As soon as practicably possible
16 after receiving the information concerning the incident, the reporter
17 shall prepare and send, fax, or electronically transmit a written
18 followup report of the incident with a brief description of the
19 images or materials.

20 (3) For purposes of this article, “commercial computer
21 technician” includes an employee designated by an employer to
22 receive reports pursuant to an established reporting process
23 authorized by subparagraph (B) of paragraph (43) of subdivision
24 (a) of Section 11165.7.

25 (4) As used in this subdivision, “electronic medium” includes,
26 but is not limited to, a recording, CD-ROM, magnetic disk memory,
27 magnetic tape memory, CD, DVD, thumbdrive, or any other
28 computer hardware or media.

29 (5) As used in this subdivision, “sexual conduct” means any of
30 the following:

31 (A) Sexual intercourse, including genital-genital, oral-genital,
32 anal-genital, or oral-anal, whether between persons of the same or
33 opposite sex or between humans and animals.

34 (B) Penetration of the vagina or rectum by any object.

35 (C) Masturbation for the purpose of sexual stimulation of the
36 viewer.

37 (D) Sadomasochistic abuse for the purpose of sexual stimulation
38 of the viewer.

39 (E) Exhibition of the genitals, pubic, or rectal areas of a person
40 for the purpose of sexual stimulation of the viewer.

1 (f) Any mandated reporter who knows or reasonably suspects
2 that the home or institution in which a child resides is unsuitable
3 for the child because of abuse or neglect of the child shall bring
4 the condition to the attention of the agency to which, and at the
5 same time as, he or she makes a report of the abuse or neglect
6 pursuant to subdivision (a).

7 (g) Any other person who has knowledge of or observes a child
8 whom he or she knows or reasonably suspects has been a victim
9 of child abuse or neglect may report the known or suspected
10 instance of child abuse or neglect to an agency specified in Section
11 11165.9. For purposes of this section, “any other person” includes
12 a mandated reporter who acts in his or her private capacity and
13 not in his or her professional capacity or within the scope of his
14 or her employment.

15 (h) When two or more persons, who are required to report,
16 jointly have knowledge of a known or suspected instance of child
17 abuse or neglect, and when there is agreement among them, the
18 telephone report may be made by a member of the team selected
19 by mutual agreement and a single report may be made and signed
20 by the selected member of the reporting team. Any member who
21 has knowledge that the member designated to report has failed to
22 do so shall thereafter make the report.

23 (i) (1) The reporting duties under this section are individual,
24 and no supervisor or administrator may impede or inhibit the
25 reporting duties, and no person making a report shall be subject
26 to any sanction for making the report. However, internal procedures
27 to facilitate reporting and apprise supervisors and administrators
28 of reports may be established provided that they are not inconsistent
29 with this article.

30 (2) The internal procedures shall not require any employee
31 required to make reports pursuant to this article to disclose his or
32 her identity to the employer.

33 (3) Reporting the information regarding a case of possible child
34 abuse or neglect to an employer, supervisor, school principal,
35 school counselor, coworker, or other person shall not be a substitute
36 for making a mandated report to an agency specified in Section
37 11165.9.

38 (j) (1) A county probation or welfare department shall
39 immediately, or as soon as practicably possible, report by
40 telephone, fax, or electronic transmission to the law enforcement

1 agency having jurisdiction over the case, to the agency given the
2 responsibility for investigation of cases under Section 300 of the
3 Welfare and Institutions Code, and to the district attorney's office
4 every known or suspected instance of child abuse or neglect, as
5 defined in Section 11165.6, except acts or omissions coming within
6 subdivision (b) of Section 11165.2, or reports made pursuant to
7 Section 11165.13 based on risk to a child that relates solely to the
8 inability of the parent to provide the child with regular care due
9 to the parent's substance abuse, which shall be reported only to
10 the county welfare or probation department. ~~When the known or~~
11 ~~suspected instance of child abuse involves an allegation of sexual~~
12 ~~exploitation, as defined in paragraph (2) of subdivision (e) of~~
13 ~~Section 11165.1, of a child or youth receiving child welfare~~
14 ~~services, the county probation or welfare department shall~~
15 ~~immediately, or in no case later than 24 hours from receipt of the~~
16 ~~information, report the incident by telephone, fax, or electronic~~
17 ~~transmission to the law enforcement agency having jurisdiction~~
18 ~~over the case. A county probation or welfare department also shall~~
19 ~~send, fax, or electronically transmit a written report thereof within~~
20 ~~36 hours of receiving the information concerning the incident to~~
21 ~~any agency to which it makes a telephone report under this~~
22 ~~subdivision.~~

23 *(2) A county probation or welfare department shall immediately,*
24 *and in no case in more than 24 hours, report to the law*
25 *enforcement agency having jurisdiction over the case after*
26 *receiving information that a child or youth who is receiving child*
27 *welfare services has been identified as the victim of commercial*
28 *sexual exploitation, as defined in Section 11165.1.*

29 ~~(2)~~
30 *(3) When a child or youth who is receiving child welfare*
31 *services and who is known or suspected to be reasonably believed*
32 *to be the victim of, or is at risk of being the victim of, sexual*
33 *exploitation, as defined in paragraph (2) of subdivision (e) of*
34 *Section 11165.1, is missing or has been abducted, the county*
35 *probation or welfare department shall immediately, or in no case*
36 *later than 24 hours from receipt of the information, report the*
37 *incident to the appropriate law enforcement authority for entry*
38 *into the National Crime Information Center database of the Federal*
39 *Bureau of Investigation and to the National Center for Missing*
40 *and Exploited Children.*

(k) A law enforcement agency shall immediately, or as soon as practicable possible, report by telephone, fax, or electronic transmission to the agency given responsibility for investigation of cases under Section 300 of the Welfare and Institutions Code and to the district attorney's office every known or suspected instance of child abuse or neglect reported to it, except acts or omissions coming within subdivision (b) of Section 11165.2, which shall be reported only to the county welfare or probation department. A law enforcement agency shall report to the county welfare or probation department every known or suspected instance of child abuse or neglect reported to it which is alleged to have occurred as a result of the action of a person responsible for the child's welfare, or as the result of the failure of a person responsible for the child's welfare to adequately protect the minor from abuse when the person responsible for the child's welfare knew or reasonably should have known that the minor was in danger of abuse. A law enforcement agency also shall send, fax, or electronically transmit a written report thereof within 36 hours of receiving the information concerning the incident to any agency to which it makes a telephone report under this subdivision.

SEC. 5. Section 309 of the Welfare and Institutions Code is amended to read:

309. (a) Upon delivery to the social worker of a child who has been taken into temporary custody under this article, the social worker shall immediately investigate the circumstances of the child and the facts surrounding the child's being taken into custody and attempt to maintain the child with the child's family through the provision of services. The social worker shall immediately release the child to the custody of the child's parent, guardian, or responsible relative, regardless of the parent's, guardian's, or relative's immigration status, unless one or more of the following conditions exist:

(1) The child has no parent, guardian, or responsible relative; or the child's parent, guardian, or responsible relative is not willing to provide care for the child.

(2) Continued detention of the child is a matter of immediate and urgent necessity for the protection of the child and there are no reasonable means by which the child can be protected in his or her home or the home of a responsible relative.

1 (3) There is substantial evidence that a parent, guardian, or
2 custodian of the child is likely to flee the jurisdiction of the court.

3 (4) The child has left a placement in which he or she was placed
4 by the juvenile court.

5 (5) The parent or other person having lawful custody of the
6 child voluntarily surrendered physical custody of the child pursuant
7 to Section 1255.7 of the Health and Safety Code and did not
8 reclaim the child within the 14-day period specified in subdivision
9 (e) of that section.

10 (b) In any case in which there is reasonable cause for believing
11 that a child who is under the care of a physician and surgeon or a
12 hospital, clinic, or other medical facility and cannot be immediately
13 moved and is a person described in Section 300, the child shall be
14 deemed to have been taken into temporary custody and delivered
15 to the social worker for the purposes of this chapter while the child
16 is at the office of the physician and surgeon or the medical facility.

17 (c) If the child is not released to his or her parent or guardian,
18 the child shall be deemed detained for purposes of this chapter.

19 (d) (1) If an able and willing relative, as defined in Section 319,
20 or an able and willing nonrelative extended family member, as
21 defined in Section 362.7, is available and requests temporary
22 placement of the child pending the detention hearing, or after the
23 detention hearing and pending the dispositional hearing conducted
24 pursuant to Section 358, the county welfare department shall
25 initiate an assessment of the relative's or nonrelative extended
26 family member's suitability, which shall include an in-home
27 inspection to assess the safety of the home and the ability of the
28 relative or nonrelative extended family member to care for the
29 child's needs, and a consideration of the results of a criminal
30 records check conducted pursuant to subdivision (a) of Section
31 16504.5 and a check of allegations of prior child abuse or neglect
32 concerning the relative or nonrelative extended family member
33 and other adults in the home. A relative's identification card from
34 a foreign consulate or foreign passport shall be considered a valid
35 form of identification for conducting a criminal records check and
36 fingerprint clearance check under this subdivision. Upon
37 completion of this assessment, the child may be placed in the
38 assessed home. For purposes of this paragraph, and except for the
39 criminal records check conducted pursuant to subdivision (a) of
40 Section 16504.5, the standards used to determine suitability shall

1 be the same standards set forth in the regulations for the licensing
2 of foster family homes.

3 (2) Immediately following the placement of a child in the home
4 of a relative or a nonrelative extended family member, the county
5 welfare department shall evaluate and approve or deny the home
6 for purposes of AFDC-FC eligibility pursuant to Section 11402.
7 The standards used to evaluate and grant or deny approval of the
8 home of the relative and of the home of a nonrelative extended
9 family member, as described in Section 362.7, shall be the same
10 standards set forth in regulations for the licensing of foster family
11 homes which prescribe standards of safety and sanitation for the
12 physical plant and standards for basic personal care, supervision,
13 and services provided by the caregiver.

14 (3) To the extent allowed by federal law, as a condition of
15 receiving funding under Title IV-E of the federal Social Security
16 Act (42 U.S.C. Sec. 670 et seq.), if a relative or nonrelative
17 extended family member meets all other conditions for approval,
18 except for the receipt of the Federal Bureau of Investigation's
19 criminal history information for the relative or nonrelative extended
20 family member, and other adults in the home, as indicated, the
21 county welfare department may approve the home and document
22 that approval, if the relative or nonrelative extended family
23 member, and each adult in the home, has signed and submitted a
24 statement that he or she has never been convicted of a crime in the
25 United States, other than a traffic infraction as defined in paragraph
26 (1) of subdivision (a) of Section 42001 of the Vehicle Code. If,
27 after the approval has been granted, the department determines
28 that the relative or nonrelative extended family member or other
29 adult in the home has a criminal record, the approval may be
30 terminated.

31 (4) If the criminal records check indicates that the person has
32 been convicted of a crime for which the Director of Social Services
33 cannot grant an exemption under Section 1522 of the Health and
34 Safety Code, the child shall not be placed in the home. If the
35 criminal records check indicates that the person has been convicted
36 of a crime for which the Director of Social Services may grant an
37 exemption under Section 1522 of the Health and Safety Code, the
38 child shall not be placed in the home unless a criminal records
39 exemption has been granted by the county based on substantial
40 and convincing evidence to support a reasonable belief that the

1 person with the criminal conviction is of such good character as
2 to justify the placement and not present a risk of harm to the child.

3 (e) (1) If the child is removed, the social worker shall conduct,
4 within 30 days, an investigation in order to identify and locate all
5 grandparents, *parents of a sibling of the child, if the parent has*
6 *legal custody of the sibling*, adult siblings, and other adult relatives
7 of the child, as defined in paragraph (2) of subdivision (f) of
8 Section 319, including any other adult relatives suggested by the
9 parents. *As used in this section, “sibling” means a person related*
10 *to the identified child by blood, adoption, or affinity through a*
11 *common legal or biological parent.* The social worker shall provide
12 to all adult relatives who are located, except when that relative’s
13 history of family or domestic violence makes notification
14 inappropriate, within 30 days of removal of the child, written
15 notification and shall also, whenever appropriate, provide oral
16 notification, in person or by telephone, of all the following
17 information:

18 (A) The child has been removed from the custody of his or her
19 parent or parents, or his or her guardians.

20 (B) An explanation of the various options to participate in the
21 care and placement of the child and support for the child’s family,
22 including any options that may be lost by failing to respond. The
23 notice shall provide information about providing care for the child
24 while the family receives reunification services with the goal of
25 returning the child to the parent or guardian, how to become a
26 foster family home or approved relative or nonrelative extended
27 family member as defined in Section 362.7, and additional services
28 and support that are available in out-of-home placements. The
29 notice shall also include information regarding the Kin-GAP
30 Program (Article 4.5 (commencing with Section 11360) of Chapter
31 2 of Part 3 of Division 9), the CalWORKs program for approved
32 relative caregivers (Chapter 2 (commencing with Section 11200)
33 of Part 3 of Division 9), adoption, and adoption assistance (Chapter
34 2.1 (commencing with Section 16115) of Part 4 of Division 9), as
35 well as other options for contact with the child, including, but not
36 limited to, visitation. The State Department of Social Services, in
37 consultation with the County Welfare Directors Association of
38 California and other interested stakeholders, shall develop the
39 written notice.

(2) The social worker shall also provide the adult relatives notified pursuant to paragraph (1) with a relative information form to provide information to the social worker and the court regarding the needs of the child. The form shall include a provision whereby the relative may request the permission of the court to address the court, if the relative so chooses. The Judicial Council, in consultation with the State Department of Social Services and the County Welfare Directors Association of California, shall develop the form.

(3) The social worker shall use due diligence in investigating the names and locations of the relatives pursuant to paragraph (1), including, but not limited to, asking the child in an age-appropriate manner about relatives important to the child, consistent with the child's best interest, and obtaining information regarding the location of the child's adult relatives. Each county welfare department shall create and make public a procedure by which relatives of a child who has been removed from his or her parents or guardians may identify themselves to the county welfare department and be provided with the notices required by paragraphs (1) and (2).

~~SEC. 4.~~

SEC. 6. Section 362.04 of the Welfare and Institutions Code is amended to read:

362.04. (a) For purposes of this section:

(1) "Caregiver" means any licensed certified foster parent, approved relative caregiver, or approved nonrelative extended family member, or approved resource family.

(2) "Reasonable and prudent parent" or "reasonable and prudent parent standard" has the meaning set forth in subdivision (c) of Section 362.05.

(3) "Short term" means no more than 24 consecutive hours.

(b) Every caregiver may arrange for occasional short-term babysitting of their foster child and allow individuals to supervise the foster child for the purposes set forth in Section 362.05, or on occasions, including, but not limited to, when the foster parent has a medical or other health care appointment, grocery or other shopping, personal grooming appointments, special occasions for the foster parents, foster parent training classes, school-related meetings (such as parent-teacher conferences), business meetings,

1 adult social gatherings, or an occasional evening out by the foster
2 parent.

3 (c) Caregivers shall use a reasonable and prudent parent standard
4 in determining and selecting appropriate babysitters for occasional
5 short-term use.

6 (d) The caregiver shall endeavor to provide the babysitter with
7 the following information before leaving the child for purposes of
8 short-term care:

9 (1) Information about the child's emotional, behavioral, medical,
10 or physical conditions, if any, necessary to provide care for the
11 child during the time the foster child is being supervised by the
12 babysitter.

13 (2) Any medication that should be administered to the foster
14 child during the time the foster child is being supervised by the
15 babysitter.

16 (3) Emergency contact information that is valid during the time
17 the foster child is being supervised by the babysitter.

18 (e) Babysitters selected by the caregiver to provide occasional
19 short-term care to a foster child under the provisions of this section
20 shall be exempt from any department regulation requiring health
21 screening or cardiopulmonary resuscitation certification or training.

22 (f) Each state and local entity shall ensure that private agencies
23 that provide foster care services to dependent children have policies
24 consistent with this section. Policies that are not consistent with
25 this section include those that are incompatible with, contradictory
26 to, or more restrictive than this section.

27 ~~SEC. 5.~~

28 *SEC. 7.* Section 362.05 of the Welfare and Institutions Code
29 is amended to read:

30 362.05. (a) (1) Every child adjudged a dependent child of the
31 juvenile court shall be entitled to participate in age-appropriate
32 extracurricular, enrichment, and social activities. No state or local
33 regulation or policy may prevent, or create barriers to, participation
34 in those activities. Each state and local entity shall ensure that
35 private agencies that provide foster care services to dependent
36 children have policies consistent with this section and that those
37 agencies promote and protect the ability of dependent children to
38 participate in age-appropriate extracurricular, enrichment, and
39 social activities. A group home administrator, a facility manager,
40 or his or her responsible designee, and a caregiver, as defined in

paragraph (1) of subdivision (a) of Section 362.04, shall use a reasonable and prudent parent standard in determining whether to give permission for a child residing in foster care to participate in extracurricular, enrichment, and social activities. A group home administrator, a facility manager, or his or her responsible designee, and a caregiver shall take reasonable steps to determine the appropriateness of the activity in consideration of the child's age, maturity, and developmental level.

(2) Training for caregivers shall include knowledge and skills relating to the reasonable and prudent parent standard for the participation of the child in age or developmentally appropriate activities, consistent with this section and Section 671(a)(24) of Title 42 of the United States Code.

(b) A group home administrator or a facility manager, or his or her responsible designee, is encouraged to consult with social work or treatment staff members who are most familiar with the child at the group home in applying and using the reasonable and prudent parent standard.

(c) (1) "Reasonable and prudent parent" or "reasonable and prudent parent standard" means the standard characterized by careful and sensible parental decisions that maintain the health, safety, and best interests of a child while at the same time encouraging the emotional and developmental growth of the child, that a caregiver shall use when determining whether to allow a child in foster care under the responsibility of the state to participate in *age or developmentally appropriate* extracurricular, enrichment, cultural, and social activities.

(2) *The term "age or developmentally appropriate" means both of the following:*

(A) *Activities or items that are generally accepted as suitable for children of the same chronological age or level of maturity or that are determined to be developmentally appropriate for a child, based on the development of cognitive, emotional, physical, and behavioral capacities that are typical for an age or age group.*

(B) *In the case of a specific child, activities or items that are suitable for the child based on the developmental stages attained by the child with respect to the cognitive, emotional, physical, and behavioral capacities of the child.*

SEC. 8. Section 362.1 of the Welfare and Institutions Code is amended to read:

1 362.1. (a) In order to maintain ties between the parent or
2 guardian and any siblings and the child, and to provide information
3 relevant to deciding if, and when, to return a child to the custody
4 of his or her parent or guardian, or to encourage or suspend sibling
5 interaction, any order placing a child in foster care, and ordering
6 reunification services, shall provide as follows:

7 (1) (A) Subject to subparagraph (B), for visitation between the
8 parent or guardian and the child. Visitation shall be as frequent as
9 possible, consistent with the well-being of the child.

10 (B) No visitation order shall jeopardize the safety of the child.
11 To protect the safety of the child, the court may keep the child's
12 address confidential. If the parent of the child has been convicted
13 of murder in the first degree, as defined in Section 189 of the Penal
14 Code, and the victim of the murder was the other parent of the
15 child, the court shall order visitation between the child and the
16 parent only if that order would be consistent with Section 3030 of
17 the Family Code.

18 (2) Pursuant to subdivision (b) of Section 16002, for visitation
19 between the child and any siblings, unless the court finds by clear
20 and convincing evidence that sibling interaction is contrary to the
21 safety or well-being of either child.

22 (3) Pursuant to subdivision (c) of Section 16002, for review of
23 the reasons for any suspension of sibling interaction at each
24 periodic review hearing pursuant to Section 366, and for a
25 requirement that, in order for a suspension to continue, the court
26 shall make a renewed finding that sibling interaction is contrary
27 to the safety or well-being of either child.

28 (4) If the child is a teen parent who has custody of his or her
29 child and that child is not a dependent of the court pursuant to this
30 chapter, for visitation among the teen parent, the child's
31 noncustodial parent, and appropriate family members, unless the
32 court finds by clear and convincing evidence that visitation would
33 be detrimental to the teen parent.

34 (b) When reunification services are not ordered pursuant to
35 Section 361.5, the child's plan for legal permanency shall include
36 consideration of the existence of and the relationship with any
37 sibling pursuant to Section 16002, including their impact on
38 placement and visitation.

(c) As used in this section, “sibling” means a ~~child related to another person~~ *person related to the identified child* by blood, adoption, or affinity through a common legal or biological parent.

SEC. 9. *Section 366 of the Welfare and Institutions Code is amended to read:*

366. (a) (1) The status of every dependent child in foster care shall be reviewed periodically as determined by the court but no less frequently than once every six months, as calculated from the date of the original dispositional hearing, until the hearing described in Section 366.26 is completed. The court shall consider the safety of the child and shall determine all of the following:

(A) The continuing necessity for and appropriateness of the placement.

(B) The extent of the agency’s compliance with the case plan in making reasonable efforts, or, *in the case of a child 16 years of age or older with a permanent plan other than return home, legal adoption, or placement with a fit and willing relative, the ongoing and intensive efforts*, or, in the case of an Indian child, active efforts as described in Section 361.7, to return the child to a safe home and to complete any steps necessary to finalize the permanent placement of the child, including efforts to maintain relationships between a child who is 10 years of age or older and who has been in an out-of-home placement for six months or longer, and individuals other than the child’s siblings who are important to the child, consistent with the child’s best interests.

(C) Whether there should be any limitation on the right of the parent or guardian to make educational decisions or developmental services decisions for the child. That limitation shall be specifically addressed in the court order and may not exceed those necessary to protect the child. Whenever the court specifically limits the right of the parent or guardian to make educational decisions or developmental services decisions for the child, the court shall at the same time appoint a responsible adult to make educational decisions or developmental services decisions for the child pursuant to Section 361.

(D) (i) Whether the child has other siblings under the court’s jurisdiction, and, if any siblings exist, all of the following:

(I) The nature of the relationship between the child and his or her siblings.

1 (II) The appropriateness of developing or maintaining the sibling
2 relationships pursuant to Section 16002.

3 (III) If the siblings are not placed together in the same home,
4 why the siblings are not placed together and what efforts are being
5 made to place the siblings together, or why those efforts are not
6 appropriate.

7 (IV) If the siblings are not placed together, all of the following:

8 (ia) The frequency and nature of the visits between the siblings.

9 (ib) If there are visits between the siblings, whether the visits
10 are supervised or unsupervised. If the visits are supervised, a
11 discussion of the reasons why the visits are supervised, and what
12 needs to be accomplished in order for the visits to be unsupervised.

13 (ic) If there are visits between the siblings, a description of the
14 location and length of the visits.

15 (id) Any plan to increase visitation between the siblings.

16 (V) The impact of the sibling relationships on the child's
17 placement and planning for legal permanence.

18 (VI) The continuing need to suspend sibling interaction, if
19 applicable, pursuant to subdivision (c) of Section 16002.

20 (ii) The factors the court may consider in making a determination
21 regarding the nature of the child's sibling relationships may
22 include, but are not limited to, whether the siblings were raised
23 together in the same home, whether the siblings have shared
24 significant common experiences or have existing close and strong
25 bonds, whether either sibling expresses a desire to visit or live with
26 his or her sibling, as applicable, and whether ongoing contact is
27 in the child's best emotional interests.

28 (E) The extent of progress that has been made toward alleviating
29 or mitigating the causes necessitating placement in foster care.

30 (F) If the review hearing is the last review hearing to be held
31 before the child attains 18 years of age, the court shall conduct the
32 hearing pursuant to Section 366.31 or 366.32.

33 (2) The court shall project a likely date by which the child may
34 be returned to and safely maintained in the home or placed for
35 adoption, legal guardianship, *placed with a fit and willing relative*,
36 or in another planned permanent living arrangement.

37 (b) Subsequent to the hearing, periodic reviews of each child
38 in foster care shall be conducted pursuant to the requirements of
39 Sections 366.3 and 16503.

1 (c) If the child has been placed out of state, each review
2 described in subdivision (a) and any reviews conducted pursuant
3 to Sections 366.3 and 16503 shall also address whether the
4 out-of-state placement continues to be the most appropriate
5 placement selection and in the best interests of the child.

6 (d) (1) A review described in subdivision (a) and any reviews
7 conducted pursuant to Sections 366.3 and 16503 shall not result
8 in a placement of a child outside the United States prior to a judicial
9 finding that the placement is in the best interest of the child, except
10 as required by federal law or treaty.

11 (2) The party or agency requesting placement of the child outside
12 the United States shall carry the burden of proof and must show,
13 by clear and convincing evidence, that a placement outside the
14 United States is in the best interest of the child.

15 (3) In determining the best interest of the child, the court shall
16 consider, but not be limited to, the following factors:

17 (A) Placement with a relative.

18 (B) Placement of siblings in the same home.

19 (C) Amount and nature of any contact between the child and
20 the potential guardian or caretaker.

21 (D) Physical and medical needs of the dependent child.

22 (E) Psychological and emotional needs of the dependent child.

23 (F) Social, cultural, and educational needs of the dependent
24 child.

25 (G) Specific desires of any dependent child who is 12 years of
26 age or older.

27 (4) If the court finds that a placement outside the United States
28 is, by clear and convincing evidence, in the best interest of the
29 child, the court may issue an order authorizing the social worker
30 or placing agency to make a placement outside the United States.
31 A child subject to this subdivision shall not leave the United States
32 prior to the issuance of the order described in this paragraph.

33 (5) For purposes of this subdivision, “outside the United States”
34 shall not include the lands of any federally recognized American
35 Indian tribe or Alaskan Natives.

36 (6) This section shall not apply to the placement of a dependent
37 child with a parent.

38 (e) A child may not be placed in an out-of-state group home,
39 or remain in an out-of-state group home, unless the group home
40 is in compliance with Section 7911.1 of the Family Code.

~~(f) The implementation and operation of the amendments to subparagraph (B) of paragraph (1) of subdivision (a) enacted at the 2005-06 Regular Session shall be subject to appropriation through the budget process and by phase, as provided in Section 366.35.~~

~~(g)~~

(f) The status review of every nonminor dependent, as defined in subdivision (v) of Section 11400, shall be conducted pursuant to the requirements of Sections 366.3, 366.31, or 366.32, and 16503 until dependency jurisdiction is terminated pursuant to Section 391.

SEC. 10. Section 366.1 of the Welfare and Institutions Code is amended to read:

366.1. Each supplemental report required to be filed pursuant to Section 366 shall include, but not be limited to, a factual discussion of each of the following subjects:

(a) Whether the county welfare department social worker has considered either of the following:

(1) Child protective services, as defined in Chapter 5 (commencing with Section 16500) of Part 4 of Division 9, as a possible solution to the problems at hand, and has offered those services to qualified parents, if appropriate under the circumstances.

(2) Whether the child can be returned to the custody of his or her parent who is enrolled in a certified substance abuse treatment facility that allows a dependent child to reside with his or her parent.

(b) What plan, if any, for the return and maintenance of the child in a safe home is recommended to the court by the county welfare department social worker.

(c) Whether the subject child appears to be a person who is eligible to be considered for further court action to free the child from parental custody and control.

(d) What actions, if any, have been taken by the parent to correct the problems that caused the child to be made a dependent child of the court.

(e) If the parent or guardian is unwilling or unable to participate in making an educational decision for his or her child, or if other circumstances exist that compromise the ability of the parent or guardian to make educational decisions for the child, the county welfare department or social worker shall consider whether the

1 right of the parent or guardian to make educational decisions for
2 the child should be limited. If the supplemental report makes that
3 recommendation, the report shall identify whether there is a
4 responsible adult available to make educational decisions for the
5 child pursuant to Section 361.

6 (f) (1) Whether the child has any siblings under the court's
7 jurisdiction, and, if any siblings exist, all of the following:

8 (A) The nature of the relationship between the child and his or
9 her siblings.

10 (B) The appropriateness of developing or maintaining the sibling
11 relationships pursuant to Section 16002.

12 (C) If the siblings are not placed together in the same home,
13 why the siblings are not placed together and what efforts are being
14 made to place the siblings together, or why those efforts are not
15 appropriate.

16 (D) If the siblings are not placed together, all of the following:

17 (i) The frequency and nature of the visits between the siblings.

18 (ii) If there are visits between the siblings, whether the visits
19 are supervised or unsupervised. If the visits are supervised, a
20 discussion of the reasons why the visits are supervised, and what
21 needs to be accomplished in order for the visits to be unsupervised.

22 (iii) If there are visits between the siblings, a description of the
23 location and length of the visits.

24 (iv) Any plan to increase visitation between the siblings.

25 (E) The impact of the sibling relationships on the child's
26 placement and planning for legal permanence.

27 (2) The factual discussion shall include a discussion of indicators
28 of the nature of the child's sibling relationships, including, but not
29 limited to, whether the siblings were raised together in the same
30 home, whether the siblings have shared significant common
31 experiences or have existing close and strong bonds, whether either
32 sibling expresses a desire to visit or live with his or her sibling, as
33 applicable, and whether ongoing contact is in the child's best
34 emotional interests.

35 (g) Whether a child who is 10 years of age or older and who
36 has been in an out-of-home placement for six months or longer
37 has relationships with individuals other than the child's siblings
38 that are important to the child, consistent with the child's best
39 interests, and actions taken to maintain those relationships. The
40 social worker shall ask every child who is 10 years of age or older

1 and who has been in an out-of-home placement for six months or
2 longer to identify any individuals other than the child's siblings
3 who are important to the child, consistent with the child's best
4 interest. The social worker may ask any other child to provide that
5 information, as appropriate.

6 ~~(h) The implementation and operation of the amendments to~~
7 ~~subdivision (g) enacted at the 2005-06 Regular Session shall be~~
8 ~~subject to appropriation through the budget process and by phase,~~
9 ~~as provided in Section 366.35.~~

10 *(h) (1) When the child is 16 years of age or older and is in a*
11 *planned permanent living arrangement other than return home,*
12 *adoption, legal guardianship, or placement with a fit and willing*
13 *relative, a description of all of the following:*

14 *(A) The intensive and ongoing efforts to return the child to the*
15 *home of the parent, place the child for adoption, or establish a*
16 *legal guardianship, as appropriate.*

17 *(B) The steps taken to do both of the following:*

18 *(i) Ensure that the child's care provider is following the*
19 *reasonable and prudent parent standard.*

20 *(ii) Ascertain whether the child has regular, ongoing*
21 *opportunities to engage in age or developmentally appropriate*
22 *activities, including consulting with the child about opportunities*
23 *for the child to participate in the activities.*

24 *(2) When the child is under 16 years of age and has a permanent*
25 *plan of return home, adoption, legal guardianship, or placement*
26 *with a fit and willing relative, any barriers to achieving the*
27 *permanent plan and the efforts made by the agency to address*
28 *those barriers.*

29 *SEC. 11. Section 366.21 of the Welfare and Institutions Code*
30 *is amended to read:*

31 366.21. (a) Every hearing conducted by the juvenile court
32 reviewing the status of a dependent child shall be placed on the
33 appearance calendar. The court shall advise all persons present at
34 the hearing of the date of the future hearing and of their right to
35 be present and represented by counsel.

36 (b) Except as provided in Sections 294 and 295, notice of the
37 hearing shall be provided pursuant to Section 293.

38 (c) At least 10 calendar days prior to the hearing, the social
39 worker shall file a supplemental report with the court regarding
40 the services provided or offered to the parent or legal guardian to

1 enable him or her to assume custody and the efforts made to
2 achieve legal permanence for the child if efforts to reunify fail,
3 including, but not limited to, efforts to maintain relationships
4 between a child who is 10 years of age or older and has been in
5 out-of-home placement for six months or longer and individuals
6 who are important to the child, consistent with the child's best
7 interests; the progress made; and, where relevant, the prognosis
8 for return of the child to the physical custody of his or her parent
9 or legal guardian; and shall make his or her recommendation for
10 disposition. If the child is a member of a sibling group described
11 in subparagraph (C) of paragraph (1) of subdivision (a) of Section
12 361.5, the report and recommendation may also take into account
13 those factors described in subdivision (e) relating to the child's
14 sibling group. If the recommendation is not to return the child to
15 a parent or legal guardian, the report shall specify why the return
16 of the child would be detrimental to the child. The social worker
17 shall provide the parent or legal guardian, counsel for the child,
18 and any court-appointed child advocate with a copy of the report,
19 including his or her recommendation for disposition, at least 10
20 calendar days prior to the hearing. In the case of a child removed
21 from the physical custody of his or her parent or legal guardian,
22 the social worker shall, at least 10 calendar days prior to the
23 hearing, provide a summary of his or her recommendation for
24 disposition to any foster parents, relative caregivers, and certified
25 foster parents who have been approved for adoption by the State
26 Department of Social Services when it is acting as an adoption
27 agency or by a county adoption agency, community care facility,
28 or foster family agency having the physical custody of the child.
29 The social worker shall include a copy of the Judicial Council
30 Caregiver Information Form (JV-290) with the summary of
31 recommendations to the child's foster parents, relative caregivers,
32 or foster parents approved for adoption, in the caregiver's primary
33 language when available, along with information on how to file
34 the form with the court.

35 (d) Prior to any hearing involving a child in the physical custody
36 of a community care facility or a foster family agency that may
37 result in the return of the child to the physical custody of his or
38 her parent or legal guardian, or in adoption or the creation of a
39 legal guardianship, or in the case of an Indian child, in consultation
40 with the child's tribe, tribal customary adoption, the facility or

1 agency shall file with the court a report, or a Judicial Council
2 Caregiver Information Form (JV-290), containing its
3 recommendation for disposition. Prior to the hearing involving a
4 child in the physical custody of a foster parent, a relative caregiver,
5 or a certified foster parent who has been approved for adoption by
6 the State Department of Social Services when it is acting as an
7 adoption agency or by a county adoption agency, the foster parent,
8 relative caregiver, or the certified foster parent who has been
9 approved for adoption by the State Department of Social Services
10 when it is acting as an adoption agency or by a county adoption
11 agency, may file with the court a report containing his or her
12 recommendation for disposition. The court shall consider the report
13 and recommendation filed pursuant to this subdivision prior to
14 determining any disposition.

15 (e) (1) At the review hearing held six months after the initial
16 dispositional hearing, but no later than 12 months after the date
17 the child entered foster care as determined in Section 361.49,
18 whichever occurs earlier, after considering the admissible and
19 relevant evidence, the court shall order the return of the child to
20 the physical custody of his or her parent or legal guardian unless
21 the court finds, by a preponderance of the evidence, that the return
22 of the child to his or her parent or legal guardian would create a
23 substantial risk of detriment to the safety, protection, or physical
24 or emotional well-being of the child. The social worker shall have
25 the burden of establishing that detriment. At the hearing, the court
26 shall consider the criminal history, obtained pursuant to paragraph
27 (1) of subdivision (f) of Section 16504.5, of the parent or legal
28 guardian subsequent to the child's removal to the extent that the
29 criminal record is substantially related to the welfare of the child
30 or the parent's or guardian's ability to exercise custody and control
31 regarding his or her child, provided the parent or legal guardian
32 agreed to submit fingerprint images to obtain criminal history
33 information as part of the case plan. The court shall also consider
34 whether the child can be returned to the custody of his or her parent
35 who is enrolled in a certified substance abuse treatment facility
36 that allows a dependent child to reside with his or her parent. The
37 fact that the parent is enrolled in a certified substance abuse
38 treatment facility shall not be, for that reason alone, prima facie
39 evidence of detriment. The failure of the parent or legal guardian
40 to participate regularly and make substantive progress in

1 court-ordered treatment programs shall be prima facie evidence
2 that return would be detrimental. In making its determination, the
3 court shall review and consider the social worker's report and
4 recommendations and the report and recommendations of any child
5 advocate appointed pursuant to Section 356.5; and shall consider
6 the efforts or progress, or both, demonstrated by the parent or legal
7 guardian and the extent to which he or she availed himself or
8 herself to services provided, taking into account the particular
9 barriers to an incarcerated, institutionalized, detained, or deported
10 parent's or legal guardian's access to those court-mandated services
11 and ability to maintain contact with his or her child.

12 **Regardless**

13 (2) *Regardless* of whether the child is returned to a parent or
14 legal guardian, the court shall specify the factual basis for its
15 conclusion that the return would be detrimental or would not be
16 detrimental. The court also shall make appropriate findings
17 pursuant to subdivision (a) of Section 366; and, where relevant,
18 shall order any additional services reasonably believed to facilitate
19 the return of the child to the custody of his or her parent or legal
20 guardian. The court shall also inform the parent or legal guardian
21 that if the child cannot be returned home by the 12-month
22 permanency hearing, a proceeding pursuant to Section 366.26 may
23 be instituted. This section does not apply in a case where, pursuant
24 to Section 361.5, the court has ordered that reunification services
25 shall not be provided.

26 **If**

27 (3) *If* the child was under three years of age on the date of the
28 initial removal, or is a member of a sibling group described in
29 subparagraph (C) of paragraph (1) of subdivision (a) of Section
30 361.5, and the court finds by clear and convincing evidence that
31 the parent failed to participate regularly and make substantive
32 progress in a court-ordered treatment plan, the court may schedule
33 a hearing pursuant to Section 366.26 within 120 days. If, however,
34 the court finds there is a substantial probability that the child, who
35 was under three years of age on the date of initial removal or is a
36 member of a sibling group described in subparagraph (C) of
37 paragraph (1) of subdivision (a) of Section 361.5, may be returned
38 to his or her parent or legal guardian within six months or that
39 reasonable services have not been provided, the court shall continue
40 the case to the 12-month permanency hearing.

1 ~~For~~

2 (4) *For* the purpose of placing and maintaining a sibling group
3 together in a permanent home, the court, in making its
4 determination to schedule a hearing pursuant to Section 366.26
5 for some or all members of a sibling group, as described in
6 subparagraph (C) of paragraph (1) of subdivision (a) of Section
7 361.5, shall review and consider the social worker's report and
8 recommendations. Factors the report shall address, and the court
9 shall consider, may include, but need not be limited to, whether
10 the sibling group was removed from parental care as a group, the
11 closeness and strength of the sibling bond, the ages of the siblings,
12 the appropriateness of maintaining the sibling group together, the
13 detriment to the child if sibling ties are not maintained, the
14 likelihood of finding a permanent home for the sibling group,
15 whether the sibling group is currently placed together in a
16 preadoptive home or has a concurrent plan goal of legal
17 permanency in the same home, the wishes of each child whose
18 age and physical and emotional condition permits a meaningful
19 response, and the best interests of each child in the sibling group.
20 The court shall specify the factual basis for its finding that it is in
21 the best interests of each child to schedule a hearing pursuant to
22 Section 366.26 within 120 days for some or all of the members of
23 the sibling group.

24 ~~If~~

25 (5) *If* the child was removed initially under subdivision (g) of
26 Section 300 and the court finds by clear and convincing evidence
27 that the whereabouts of the parent are still unknown, or the parent
28 has failed to contact and visit the child, the court may schedule a
29 hearing pursuant to Section 366.26 within 120 days. The court
30 shall take into account any particular barriers to a parent's ability
31 to maintain contact with his or her child due to the parent's
32 incarceration, institutionalization, detention by the United States
33 Department of Homeland Security, or deportation. If the court
34 finds by clear and convincing evidence that the parent has been
35 convicted of a felony indicating parental unfitness, the court may
36 schedule a hearing pursuant to Section 366.26 within 120 days.

37 ~~If~~

38 (6) *If* the child had been placed under court supervision with a
39 previously noncustodial parent pursuant to Section 361.2, the court
40 shall determine whether supervision is still necessary. The court

1 may terminate supervision and transfer permanent custody to that
2 parent, as provided for by paragraph (1) of subdivision (b) of
3 Section 361.2.

4 ~~If~~

5 (7) *In* all other cases, the court shall direct that any reunification
6 services previously ordered shall continue to be offered to the
7 parent or legal guardian pursuant to the time periods set forth in
8 subdivision (a) of Section 361.5, provided that the court may
9 modify the terms and conditions of those services.

10 ~~If~~

11 (8) *If* the child is not returned to his or her parent or legal
12 guardian, the court shall determine whether reasonable services
13 that were designed to aid the parent or legal guardian in
14 overcoming the problems that led to the initial removal and the
15 continued custody of the child have been provided or offered to
16 the parent or legal guardian. The court shall order that those
17 services be initiated, continued, or terminated.

18 (f) (1) The permanency hearing shall be held no later than 12
19 months after the date the child entered foster care, as that date is
20 determined pursuant to Section 361.49. At the permanency hearing,
21 the court shall determine the permanent plan for the child, which
22 shall include a determination of whether the child will be returned
23 to the child's home and, if so, when, within the time limits of
24 subdivision (a) of Section 361.5. After considering the relevant
25 and admissible evidence, the court shall order the return of the
26 child to the physical custody of his or her parent or legal guardian
27 unless the court finds, by a preponderance of the evidence, that
28 the return of the child to his or her parent or legal guardian would
29 create a substantial risk of detriment to the safety, protection, or
30 physical or emotional well-being of the child. The social worker
31 shall have the burden of establishing that detriment. ~~At~~

32 (A) *At* the permanency hearing, the court shall consider the
33 criminal history, obtained pursuant to paragraph (1) of subdivision
34 (f) of Section 16504.5, of the parent or legal guardian subsequent
35 to the child's removal to the extent that the criminal record is
36 substantially related to the welfare of the child or the parent's or
37 legal guardian's ability to exercise custody and control regarding
38 his or her child, provided that the parent or legal guardian agreed
39 to submit fingerprint images to obtain criminal history information
40 as part of the case plan. The court shall also determine whether

1 reasonable services that were designed to aid the parent or legal
2 guardian to overcome the problems that led to the initial removal
3 and continued custody of the child have been provided or offered
4 to the parent or legal guardian. ~~For~~

5 (B) For each youth 16 years of age and older, the court shall
6 also determine whether services have been made available to assist
7 him or her in making the transition from foster care to ~~independent~~
8 ~~living~~ *successful adulthood*. The court shall also consider whether
9 the child can be returned to the custody of his or her parent who
10 is enrolled in a certified substance abuse treatment facility that
11 allows a dependent child to reside with his or her parent. The fact
12 that the parent is enrolled in a certified substance abuse treatment
13 facility shall not be, for that reason alone, prima facie evidence of
14 detriment. The failure of the parent or legal guardian to participate
15 regularly and make substantive progress in court-ordered treatment
16 programs shall be prima facie evidence that return would be
17 detrimental. ~~In~~

18 (C) In making its determination, the court shall review and
19 consider the social worker's report and recommendations and the
20 report and recommendations of any child advocate appointed
21 pursuant to Section 356.5, shall consider the efforts or progress,
22 or both, demonstrated by the parent or legal guardian and the extent
23 to which he or she availed himself or herself of services provided,
24 taking into account the particular barriers to an incarcerated,
25 institutionalized, detained, or deported parent's or legal guardian's
26 access to those court-mandated services and ability to maintain
27 contact with his or her child, and shall make appropriate findings
28 pursuant to subdivision (a) of Section 366.

29 ~~Regardless~~

30 (2) *Regardless* of whether the child is returned to his or her
31 parent or legal guardian, the court shall specify the factual basis
32 for its decision. If the child is not returned to a parent or legal
33 guardian, the court shall specify the factual basis for its conclusion
34 that the return would be detrimental. The court also shall make a
35 finding pursuant to subdivision (a) of Section 366. If the child is
36 not returned to his or her parent or legal guardian, the court shall
37 consider, and state for the record, in-state and out-of-state
38 placement options. If the child is placed out of the state, the court
39 shall make a determination whether the out-of-state placement
40 continues to be appropriate and in the best interests of the child.

(g) If the time period in which the court-ordered services were provided has met or exceeded the time period set forth in subparagraph (A), (B), or (C) of paragraph (1) of subdivision (a) of Section 361.5, as appropriate, and a child is not returned to the custody of a parent or legal guardian at the permanency hearing held pursuant to subdivision (f), the court shall do one of the following:

(1) Continue the case for up to six months for a permanency review hearing, provided that the hearing shall occur within 18 months of the date the child was originally taken from the physical custody of his or her parent or legal guardian. The court shall continue the case only if it finds that there is a substantial probability that the child will be returned to the physical custody of his or her parent or legal guardian and safely maintained in the home within the extended period of time or that reasonable services have not been provided to the parent or legal guardian. For the purposes of this section, in order to find a substantial probability that the child will be returned to the physical custody of his or her parent or legal guardian and safely maintained in the home within the extended period of time, the court shall be required to find all of the following:

(A) That the parent or legal guardian has consistently and regularly contacted and visited with the child.

(B) That the parent or legal guardian has made significant progress in resolving problems that led to the child's removal from the home.

(C) The parent or legal guardian has demonstrated the capacity and ability both to complete the objectives of his or her treatment plan and to provide for the child's safety, protection, physical and emotional well-being, and special needs.

~~For~~

(i) *For* purposes of this subdivision, the court's decision to continue the case based on a finding or substantial probability that the child will be returned to the physical custody of his or her parent or legal guardian is a compelling reason for determining that a hearing held pursuant to Section 366.26 is not in the best interests of the child.

~~The~~

(ii) *The* court shall inform the parent or legal guardian that if the child cannot be returned home by the next permanency review

1 hearing, a proceeding pursuant to Section 366.26 may be instituted.
2 The court shall not order that a hearing pursuant to Section 366.26
3 be held unless there is clear and convincing evidence that
4 reasonable services have been provided or offered to the parent or
5 legal guardian.

6 (2) Continue the case for up to six months for a permanency
7 review hearing, provided that the hearing shall occur within 18
8 months of the date the child was originally taken from the physical
9 custody of his or her parent or legal guardian, if the parent has
10 been arrested and issued an immigration hold, detained by the
11 United States Department of Homeland Security, or deported to
12 his or her country of origin, and the court determines either that
13 there is a substantial probability that the child will be returned to
14 the physical custody of his or her parent or legal guardian and
15 safely maintained in the home within the extended period of time
16 or that reasonable services have not been provided to the parent
17 or legal guardian.

18 (3) For purposes of paragraph (2), in order to find a substantial
19 probability that the child will be returned to the physical custody
20 of his or her parent or legal guardian and safely maintained in the
21 home within the extended period of time, the court shall find all
22 of the following:

23 (A) The parent or legal guardian has consistently and regularly
24 contacted and visited with the child, taking into account any
25 particular barriers to a parent's ability to maintain contact with his
26 or her child due to the parent's arrest and receipt of an immigration
27 hold, detention by the United States Department of Homeland
28 Security, or deportation.

29 (B) The parent or legal guardian has made significant progress
30 in resolving the problems that led to the child's removal from the
31 home.

32 (C) The parent or legal guardian has demonstrated the capacity
33 or ability both to complete the objectives of his or her treatment
34 plan and to provide for the child's safety, protection, physical and
35 emotional well-being, and special needs.

36 (4) Order that a hearing be held within 120 days, pursuant to
37 Section 366.26, but only if the court does not continue the case to
38 the permanency planning review hearing and there is clear and
39 convincing evidence that reasonable services have been provided
40 or offered to the parents or legal guardians. On and after January

1 1, 2012, a hearing pursuant to Section 366.26 shall not be ordered
2 if the child is a nonminor dependent, unless the nonminor
3 dependent is an Indian child and tribal customary adoption is
4 recommended as the permanent plan.

5 (5) Order that the child remain in ~~long-term~~ foster care, but only
6 if the court finds by clear and convincing evidence, based upon
7 the evidence already presented to it, including a recommendation
8 by the State Department of Social Services when it is acting as an
9 adoption agency or by a county adoption agency, that there is a
10 compelling reason for determining that a hearing held pursuant to
11 Section 366.26 is not in the best interests of the child because the
12 child is not a proper subject for adoption and has no one willing
13 to accept legal guardianship *as of the hearing date*. For purposes
14 of this section, a recommendation by the State Department of
15 Social Services when it is acting as an adoption agency or by a
16 county adoption agency that adoption is not in the best interests
17 of the child shall constitute a compelling reason for the court's
18 determination. That recommendation shall be based on the present
19 circumstances of the child and shall not preclude a different
20 recommendation at a later date if the child's circumstances change.
21 On and after January 1, 2012, the nonminor dependent's legal
22 status as an adult is in and of itself a compelling reason not to hold
23 a hearing pursuant to Section 366.26. The court may order that a
24 nonminor dependent who otherwise is eligible pursuant to Section
25 11403 remain in a planned, permanent living arrangement.

26 (A) *The court shall make factual findings identifying any*
27 *barriers to achieving the permanent plan as of the hearing date.*
28 *When the child is under 16 years of age, the court shall order a*
29 *permanent plan of return home, adoption, legal guardianship, or*
30 *placement with a fit and willing relative, as appropriate. When*
31 *the child is 16 years of age or older, or is a nonminor dependent,*
32 *the court may order a planned permanent living arrangement other*
33 *than return home, adoption, legal guardianship, or placement with*
34 *a fit and willing relative, as appropriate.*

35 If

36 (B) *If the court orders that a child who is 10 years of age or*
37 *older remain in ~~long-term~~ foster care, the court shall determine*
38 *whether the agency has made reasonable efforts to maintain the*
39 *child's relationships with individuals other than the child's siblings*
40 *who are important to the child, consistent with the child's best*

1 interests, and may make any appropriate order to ensure that those
2 relationships are maintained.

3 If

4 (C) *If* the child is not returned to his or her parent or legal
5 guardian, the court shall consider, and state for the record, in-state
6 and out-of-state options for permanent placement. If the child is
7 placed out of the state, the court shall make a determination
8 whether the out-of-state placement continues to be appropriate and
9 in the best interests of the child.

10 (h) In any case in which the court orders that a hearing pursuant
11 to Section 366.26 shall be held, it shall also order the termination
12 of reunification services to the parent or legal guardian. The court
13 shall continue to permit the parent or legal guardian to visit the
14 child pending the hearing unless it finds that visitation would be
15 detrimental to the child. The court shall make any other appropriate
16 orders to enable the child to maintain relationships with individuals,
17 other than the child's siblings, who are important to the child,
18 consistent with the child's best interests. When the court orders a
19 termination of reunification services to the parent or legal guardian,
20 it shall also order that the child's caregiver receive the child's birth
21 certificate in accordance with Sections 16010.4 and 16010.5.
22 Additionally, when the court orders a termination of reunification
23 services to the parent or legal guardian, it shall order, when
24 appropriate, that a child who is 16 years of age or older receive
25 his or her birth certificate.

26 (i) (1) Whenever a court orders that a hearing pursuant to
27 Section 366.26, including, when, in consultation with the child's
28 tribe, tribal customary adoption is recommended, shall be held, it
29 shall direct the agency supervising the child and the county
30 adoption agency, or the State Department of Social Services when
31 it is acting as an adoption agency, to prepare an assessment that
32 shall include:

33 (A) Current search efforts for an absent parent or parents or
34 legal guardians.

35 (B) A review of the amount of and nature of any contact between
36 the child and his or her parents or legal guardians and other
37 members of his or her extended family since the time of placement.
38 Although the extended family of each child shall be reviewed on
39 a case-by-case basis, "extended family" for the purpose of this

1 subparagraph shall include, but not be limited to, the child's
2 siblings, grandparents, aunts, and uncles.

3 (C) An evaluation of the child's medical, developmental,
4 scholastic, mental, and emotional status.

5 (D) A preliminary assessment of the eligibility and commitment
6 of any identified prospective adoptive parent or legal guardian,
7 including the prospective tribal customary adoptive parent,
8 particularly the caretaker, to include a social history including
9 screening for criminal records and prior referrals for child abuse
10 or neglect, the capability to meet the child's needs, and the
11 understanding of the legal and financial rights and responsibilities
12 of adoption and guardianship. If a proposed guardian is a relative
13 of the minor, the assessment shall also consider, but need not be
14 limited to, all of the factors specified in subdivision (a) of Section
15 361.3 and in Section 361.4.

16 (E) The relationship of the child to any identified prospective
17 adoptive parent or legal guardian, the duration and character of
18 the relationship, the degree of attachment of the child to the
19 prospective relative guardian or adoptive parent, the relative's or
20 adoptive parent's strong commitment to caring permanently for
21 the child, the motivation for seeking adoption or guardianship, a
22 statement from the child concerning placement and the adoption
23 or guardianship, and whether the child, if over 12 years of age,
24 has been consulted about the proposed relative guardianship
25 arrangements, unless the child's age or physical, emotional, or
26 other condition precludes his or her meaningful response, and if
27 so, a description of the condition.

28 (F) A description of efforts to be made to identify a prospective
29 adoptive parent or legal guardian, including, but not limited to,
30 child-specific recruitment and listing on an adoption exchange
31 within the state or out of the state.

32 (G) An analysis of the likelihood that the child will be adopted
33 if parental rights are terminated.

34 (H) In the case of an Indian child, in addition to subparagraphs
35 (A) to (G), inclusive, an assessment of the likelihood that the child
36 will be adopted, when, in consultation with the child's tribe, a
37 tribal customary adoption, as defined in Section 366.24, is
38 recommended. If tribal customary adoption is recommended, the
39 assessment shall include an analysis of both of the following:

1 (i) Whether tribal customary adoption would or would not be
2 detrimental to the Indian child and the reasons for reaching that
3 conclusion.

4 (ii) Whether the Indian child cannot or should not be returned
5 to the home of the Indian parent or Indian custodian and the reasons
6 for reaching that conclusion.

7 (2) (A) A relative caregiver's preference for legal guardianship
8 over adoption, if it is due to circumstances that do not include an
9 unwillingness to accept legal or financial responsibility for the
10 child, shall not constitute the sole basis for recommending removal
11 of the child from the relative caregiver for purposes of adoptive
12 placement.

13 (B) Regardless of his or her immigration status, a relative
14 caregiver shall be given information regarding the permanency
15 options of guardianship and adoption, including the long-term
16 benefits and consequences of each option, prior to establishing
17 legal guardianship or pursuing adoption. If the proposed permanent
18 plan is guardianship with an approved relative caregiver for a
19 minor eligible for aid under the Kin-GAP Program, as provided
20 for in Article 4.7 (commencing with Section 11385) of Chapter 2
21 of Part 3 of Division 9, the relative caregiver shall be informed
22 about the terms and conditions of the negotiated agreement
23 pursuant to Section 11387 and shall agree to its execution prior to
24 the hearing held pursuant to Section 366.26. A copy of the executed
25 negotiated agreement shall be attached to the assessment.

26 (j) If, at any hearing held pursuant to Section 366.26, a
27 guardianship is established for the minor with an approved relative
28 caregiver, and juvenile court dependency is subsequently
29 dismissed, the minor shall be eligible for aid under the Kin-GAP
30 Program, as provided for in Article 4.5 (commencing with Section
31 11360) or Article 4.7 (commencing with Section 11385), as
32 applicable, of Chapter 2 of Part 3 of Division 9.

33 (k) As used in this section, "relative" means an adult who is
34 related to the minor by blood, adoption, or affinity within the fifth
35 degree of kinship, including stepparents, stepsiblings, and all
36 relatives whose status is preceded by the words "great,"
37 "great-great," or "grand," or the spouse of any of those persons
38 even if the marriage was terminated by death or dissolution. If the
39 proposed permanent plan is guardianship with an approved relative
40 caregiver for a minor eligible for aid under the Kin-GAP Program,

1 as provided for in Article 4.7 (commencing with Section 11385)
2 of Chapter 2 of Part 3 of Division 9, “relative” as used in this
3 section has the same meaning as “relative” as defined in
4 subdivision (c) of Section 11391.

5 (l) For purposes of this section, evidence of any of the following
6 circumstances may not, in and of itself, be deemed a failure to
7 provide or offer reasonable services:

8 (1) The child has been placed with a foster family that is eligible
9 to adopt a child, or has been placed in a preadoptive home.

10 (2) The case plan includes services to make and finalize a
11 permanent placement for the child if efforts to reunify fail.

12 (3) Services to make and finalize a permanent placement for
13 the child, if efforts to reunify fail, are provided concurrently with
14 services to reunify the family.

15 ~~(m) The implementation and operation of the amendments to~~
16 ~~subdivisions (c) and (g) enacted at the 2005–06 Regular Session~~
17 ~~shall be subject to appropriation through the budget process and~~
18 ~~by phase, as provided in Section 366.35.~~

19 *SEC. 12. Section 366.22 of the Welfare and Institutions Code*
20 *is amended to read:*

21 366.22. (a) (1) When a case has been continued pursuant to
22 paragraph (1) or (2) of subdivision (g) of Section 366.21, the
23 permanency review hearing shall occur within 18 months after the
24 date the child was originally removed from the physical custody
25 of his or her parent or legal guardian. After considering the
26 admissible and relevant evidence, the court shall order the return
27 of the child to the physical custody of his or her parent or legal
28 guardian unless the court finds, by a preponderance of the evidence,
29 that the return of the child to his or her parent or legal guardian
30 would create a substantial risk of detriment to the safety, protection,
31 or physical or emotional well-being of the child. The social worker
32 shall have the burden of establishing that detriment. At the
33 permanency review hearing, the court shall consider the criminal
34 history, obtained pursuant to paragraph (1) of subdivision (f) of
35 Section 16504.5, of the parent or legal guardian subsequent to the
36 child’s removal, to the extent that the criminal record is
37 substantially related to the welfare of the child or the parent’s or
38 legal guardian’s ability to exercise custody and control regarding
39 his or her child, provided that the parent or legal guardian agreed
40 to submit fingerprint images to obtain criminal history information

1 as part of the case plan. The court shall also consider whether the
2 child can be returned to the custody of his or her parent who is
3 enrolled in a certified substance abuse treatment facility that allows
4 a dependent child to reside with his or her parent. The fact that the
5 parent is enrolled in a certified substance abuse treatment facility
6 shall not be, for that reason alone, prima facie evidence of
7 detriment. The failure of the parent or legal guardian to participate
8 regularly and make substantive progress in court-ordered treatment
9 programs shall be prima facie evidence that return would be
10 detrimental. In making its determination, the court shall review
11 and consider the social worker's report and recommendations and
12 the report and recommendations of any child advocate appointed
13 pursuant to Section 356.5; shall consider the efforts or progress,
14 or both, demonstrated by the parent or legal guardian and the extent
15 to which he or she availed himself or herself of services provided,
16 taking into account the particular barriers of an incarcerated or
17 institutionalized parent's or legal guardian's access to those
18 court-mandated services and ability to maintain contact with his
19 or her child; and shall make appropriate findings pursuant to
20 subdivision (a) of Section 366.

21 ~~Whether~~

22 (2) *Whether* or not the child is returned to his or her parent or
23 legal guardian, the court shall specify the factual basis for its
24 decision. If the child is not returned to a parent or legal guardian,
25 the court shall specify the factual basis for its conclusion that return
26 would be detrimental. If the child is not returned to his or her parent
27 or legal guardian, the court shall consider, and state for the record,
28 in-state and out-of-state options for the child's permanent
29 placement. If the child is placed out of the state, the court shall
30 make a determination whether the out-of-state placement continues
31 to be appropriate and in the best interests of the child.

32 ~~Unless~~

33 (3) *Unless* the conditions in subdivision (b) are met and the
34 child is not returned to a parent or legal guardian at the permanency
35 review hearing, the court shall order that a hearing be held pursuant
36 to Section 366.26 in order to determine whether adoption, or, in
37 the case of an Indian child, in consultation with the child's tribe,
38 tribal customary adoption, guardianship, or ~~long-term~~ *continued*
39 *placement* in foster care is the most appropriate plan for the child.
40 On and after January 1, 2012, a hearing pursuant to Section 366.26

1 shall not be ordered if the child is a nonminor dependent, unless
2 the nonminor dependent is an Indian child, and tribal customary
3 adoption is recommended as the permanent plan. However, if the
4 court finds by clear and convincing evidence, based on the evidence
5 already presented to it, including a recommendation by the State
6 Department of Social Services when it is acting as an adoption
7 agency or by a county adoption agency, that there is a compelling
8 reason, as described in paragraph (5) of subdivision (g) of Section
9 366.21, for determining that a hearing held under Section 366.26
10 is not in the best interests of the child because the child is not a
11 proper subject for adoption and has no one willing to accept legal
12 ~~guardianship~~, *guardianship as of the hearing date*, the court may,
13 only under these circumstances, order that the child remain in
14 ~~long-term~~ *foster care with a permanent plan of return home,*
15 *adoption, legal guardianship, or placement with a fit and willing*
16 *relative. If the child is 16 years of age or older or is a nonminor*
17 *dependent, the court may order a planned permanent living*
18 *arrangement other than return home, adoption, legal guardianship,*
19 *or placement with a fit and willing relative, as appropriate. The*
20 *court shall make factual findings identifying any barriers to*
21 *achieving the permanent plan as of the hearing date.* On and after
22 January 1, 2012, the nonminor dependent's legal status as an adult
23 is in and of itself a compelling reason not to hold a hearing pursuant
24 to Section 366.26. The court may order that a nonminor dependent
25 who otherwise is eligible pursuant to Section 11403 remain in a
26 planned, permanent living arrangement. If the court orders that a
27 child who is 10 years of age or older remain in ~~long-term~~ foster
28 care, the court shall determine whether the agency has made
29 reasonable efforts to maintain the child's relationships with
30 individuals other than the child's siblings who are important to the
31 child, consistent with the child's best interests, and may make any
32 appropriate order to ensure that those relationships are maintained.
33 The hearing shall be held no later than 120 days from the date of
34 the permanency review hearing. The court shall also order
35 termination of reunification services to the parent or legal guardian.
36 The court shall continue to permit the parent or legal guardian to
37 visit the child unless it finds that visitation would be detrimental
38 to the child. The court shall determine whether reasonable services
39 have been offered or provided to the parent or legal guardian. For
40 purposes of this subdivision, evidence of any of the following

1 circumstances shall not, in and of themselves, be deemed a failure
2 to provide or offer reasonable services:

3 ~~(1)~~

4 (A) The child has been placed with a foster family that is eligible
5 to adopt a child, or has been placed in a preadoptive home.

6 ~~(2)~~

7 (B) The case plan includes services to make and finalize a
8 permanent placement for the child if efforts to reunify fail.

9 ~~(3)~~

10 (C) Services to make and finalize a permanent placement for
11 the child, if efforts to reunify fail, are provided concurrently with
12 services to reunify the family.

13 (b) If the child is not returned to a parent or legal guardian at
14 the permanency review hearing and the court determines by clear
15 and convincing evidence that the best interests of the child would
16 be met by the provision of additional reunification services to a
17 parent or legal guardian who is making significant and consistent
18 progress in a court-ordered residential substance abuse treatment
19 program, or a parent recently discharged from incarceration,
20 institutionalization, or the custody of the United States Department
21 of Homeland Security and making significant and consistent
22 progress in establishing a safe home for the child's return, the court
23 may continue the case for up to six months for a subsequent
24 permanency review hearing, provided that the hearing shall occur
25 within 24 months of the date the child was originally taken from
26 the physical custody of his or her parent or legal guardian. The
27 court shall continue the case only if it finds that there is a
28 substantial probability that the child will be returned to the physical
29 custody of his or her parent or legal guardian and safely maintained
30 in the home within the extended period of time or that reasonable
31 services have not been provided to the parent or legal guardian.
32 For the purposes of this section, in order to find a substantial
33 probability that the child will be returned to the physical custody
34 of his or her parent or legal guardian and safely maintained in the
35 home within the extended period of time, the court shall be required
36 to find all of the following:

37 (1) That the parent or legal guardian has consistently and
38 regularly contacted and visited with the child.

1 (2) That the parent or legal guardian has made significant and
2 consistent progress in the prior 18 months in resolving problems
3 that led to the child's removal from the home.

4 (3) The parent or legal guardian has demonstrated the capacity
5 and ability both to complete the objectives of his or her substance
6 abuse treatment plan as evidenced by reports from a substance
7 abuse provider as applicable, or complete a treatment plan
8 postdischarge from incarceration, institutionalization, or detention,
9 or following deportation to his or her country of origin and his or
10 her return to the United States, and to provide for the child's safety,
11 protection, physical and emotional well-being, and special needs.

12 For purposes of this subdivision, the court's decision to continue
13 the case based on a finding or substantial probability that the child
14 will be returned to the physical custody of his or her parent or legal
15 guardian is a compelling reason for determining that a hearing
16 held pursuant to Section 366.26 is not in the best interests of the
17 child.

18 The court shall inform the parent or legal guardian that if the
19 child cannot be returned home by the subsequent permanency
20 review hearing, a proceeding pursuant to Section 366.26 may be
21 instituted. The court may not order that a hearing pursuant to
22 Section 366.26 be held unless there is clear and convincing
23 evidence that reasonable services have been provided or offered
24 to the parent or legal guardian.

25 (c) (1) Whenever a court orders that a hearing pursuant to
26 Section 366.26, including when a tribal customary adoption is
27 recommended, shall be held, it shall direct the agency supervising
28 the child and the county adoption agency, or the State Department
29 of Social Services when it is acting as an adoption agency, to
30 prepare an assessment that shall include:

31 (A) Current search efforts for an absent parent or parents.

32 (B) A review of the amount of and nature of any contact between
33 the child and his or her parents and other members of his or her
34 extended family since the time of placement. Although the
35 extended family of each child shall be reviewed on a case-by-case
36 basis, "extended family" for the purposes of this subparagraph
37 shall include, but not be limited to, the child's siblings,
38 grandparents, aunts, and uncles.

39 (C) An evaluation of the child's medical, developmental,
40 scholastic, mental, and emotional status.

(D) A preliminary assessment of the eligibility and commitment of any identified prospective adoptive parent or legal guardian, particularly the caretaker, to include a social history including screening for criminal records and prior referrals for child abuse or neglect, the capability to meet the child's needs, and the understanding of the legal and financial rights and responsibilities of adoption and guardianship. If a proposed legal guardian is a relative of the minor, the assessment shall also consider, but need not be limited to, all of the factors specified in subdivision (a) of Section 361.3 and Section 361.4.

(E) The relationship of the child to any identified prospective adoptive parent or legal guardian, the duration and character of the relationship, the degree of attachment of the child to the prospective relative guardian or adoptive parent, the relative's or adoptive parent's strong commitment to caring permanently for the child, the motivation for seeking adoption or legal guardianship, a statement from the child concerning placement and the adoption or legal guardianship, and whether the child, if over 12 years of age, has been consulted about the proposed relative guardianship arrangements, unless the child's age or physical, emotional, or other condition precludes his or her meaningful response, and if so, a description of the condition.

(F) An analysis of the likelihood that the child will be adopted if parental rights are terminated.

(G) In the case of an Indian child, in addition to subparagraphs (A) to (F), inclusive, an assessment of the likelihood that the child will be adopted, when, in consultation with the child's tribe, a tribal customary adoption, as defined in Section 366.24, is recommended. If tribal customary adoption is recommended, the assessment shall include an analysis of both of the following:

(i) Whether tribal customary adoption would or would not be detrimental to the Indian child and the reasons for reaching that conclusion.

(ii) Whether the Indian child cannot or should not be returned to the home of the Indian parent or Indian custodian and the reasons for reaching that conclusion.

(2) (A) A relative caregiver's preference for legal guardianship over adoption, if it is due to circumstances that do not include an unwillingness to accept legal or financial responsibility for the child, shall not constitute the sole basis for recommending removal

1 of the child from the relative caregiver for purposes of adoptive
2 placement.

3 (B) Regardless of his or her immigration status, a relative
4 caregiver shall be given information regarding the permanency
5 options of guardianship and adoption, including the long-term
6 benefits and consequences of each option, prior to establishing
7 legal guardianship or pursuing adoption. If the proposed permanent
8 plan is guardianship with an approved relative caregiver for a
9 minor eligible for aid under the Kin-GAP Program, as provided
10 for in Article 4.7 (commencing with Section 11385) of Chapter 2
11 of Part 3 of Division 9, the relative caregiver shall be informed
12 about the terms and conditions of the negotiated agreement
13 pursuant to Section 11387 and shall agree to its execution prior to
14 the hearing held pursuant to Section 366.26. A copy of the executed
15 negotiated agreement shall be attached to the assessment.

16 (d) This section shall become operative January 1, 1999. If at
17 any hearing held pursuant to Section 366.26, a legal guardianship
18 is established for the minor with an approved relative caregiver,
19 and juvenile court dependency is subsequently dismissed, the minor
20 shall be eligible for aid under the Kin-GAP Program, as provided
21 for in Article 4.5 (commencing with Section 11360) or Article 4.7
22 (commencing with Section 11385), as applicable, of Chapter 2 of
23 Part 3 of Division 9.

24 (e) As used in this section, "relative" means an adult who is
25 related to the child by blood, adoption, or affinity within the fifth
26 degree of kinship, including stepparents, stepsiblings, and all
27 relatives whose status is preceded by the words "great,"
28 "great-great," or "grand," or the spouse of any of those persons
29 even if the marriage was terminated by death or dissolution. If the
30 proposed permanent plan is guardianship with an approved relative
31 caregiver for a minor eligible for aid under the Kin-GAP Program,
32 as provided for in Article 4.7 (commencing with Section 11385)
33 of Chapter 2 of Part 3 of Division 9, "relative" as used in this
34 section has the same meaning as "relative" as defined in
35 subdivision (c) of Section 11391.

36 ~~(f) The implementation and operation of the amendments to~~
37 ~~subdivision (a) enacted at the 2005-06 Regular Session shall be~~
38 ~~subject to appropriation through the budget process and by phase,~~
39 ~~as provided in Section 366.35.~~

1 *SEC. 13. Section 366.25 of the Welfare and Institutions Code*
2 *is amended to read:*

3 366.25. (a) (1) When a case has been continued pursuant to
4 subdivision (b) of Section 366.22, the subsequent permanency
5 review hearing shall occur within 24 months after the date the
6 child was originally removed from the physical custody of his or
7 her parent or legal guardian. After considering the relevant and
8 admissible evidence, the court shall order the return of the child
9 to the physical custody of his or her parent or legal guardian unless
10 the court finds, by a preponderance of the evidence, that the return
11 of the child to his or her parent or legal guardian would create a
12 substantial risk of detriment to the safety, protection, or physical
13 or emotional well-being of the child. The social worker shall have
14 the burden of establishing that detriment. At the subsequent
15 permanency review hearing, the court shall consider the criminal
16 history, obtained pursuant to paragraph (1) of subdivision (f) of
17 Section 16504.5, of the parent or legal guardian subsequent to the
18 child's removal to the extent that the criminal record is substantially
19 related to the welfare of the child or parent's or legal guardian's
20 ability to exercise custody and control regarding his or her child
21 provided that the parent or legal guardian agreed to submit
22 fingerprint images to obtain criminal history information as part
23 of the case plan. The court shall also consider whether the child
24 can be returned to the custody of a parent who is enrolled in a
25 certified substance abuse treatment facility that allows a dependent
26 child to reside with his or her parent. The fact that the parent is
27 enrolled in a certified substance abuse treatment facility shall not
28 be, for that reason alone, prima facie evidence of detriment. The
29 failure of the parent or legal guardian to participate regularly and
30 make substantive progress in court-ordered treatment programs
31 shall be prima facie evidence that return would be detrimental. In
32 making its determination, the court shall review and consider the
33 social worker's report and recommendations and the report and
34 recommendations of any child advocate appointed pursuant to
35 Section 356.5; shall consider the efforts or progress, or both,
36 demonstrated by the parent or legal guardian and the extent to
37 which he or she availed himself or herself of services provided;
38 and shall make appropriate findings pursuant to subdivision (a) of
39 Section 366.

1 (2) Whether or not the child is returned to his or her parent or
2 legal guardian, the court shall specify the factual basis for its
3 decision. If the child is not returned to a parent or legal guardian,
4 the court shall specify the factual basis for its conclusion that return
5 would be detrimental. If the child is not returned to his or her parent
6 or legal guardian, the court shall consider and state for the record,
7 in-state and out-of-state options for the child's permanent
8 placement. If the child is placed out of the state, the court shall
9 make a determination whether the out-of-state placement continues
10 to be appropriate and in the best interests of the child.

11 (3) If the child is not returned to a parent or legal guardian at
12 the subsequent permanency review hearing, the court shall order
13 that a hearing be held pursuant to Section 366.26 in order to
14 determine whether adoption, or, in the case of an Indian child,
15 tribal customary adoption, guardianship, or ~~long-term~~ foster care
16 is the most appropriate plan for the child. On and after January 1,
17 2012, a hearing pursuant to Section 366.26 shall not be ordered if
18 the child is a nonminor dependent, unless the nonminor dependent
19 is an Indian child and tribal customary adoption is recommended
20 as the permanent plan. However, if the court finds by clear and
21 convincing evidence, based on the evidence already presented to
22 it, including a recommendation by the State Department of Social
23 Services when it is acting as an adoption agency or by a county
24 adoption agency, that there is a compelling reason, as described
25 in paragraph (5) of subdivision (g) of Section 366.21, for
26 determining that a hearing held under Section 366.26 is not in the
27 best interest of the child because the child is not a proper subject
28 for adoption or, in the case of an Indian child, tribal customary
29 adoption, and has no one willing to accept legal ~~guardianship,~~
30 *guardianship as of the hearing date*, then the court may, only under
31 these circumstances, order that the child remain in ~~long-term foster~~
32 ~~care.~~ *foster care with a permanent plan of return home, adoption,*
33 *legal guardianship, or placement with a fit and willing relative.*
34 *If the child is 16 years of age or older or is a nonminor dependent,*
35 *the court may order a planned permanent living arrangement other*
36 *than return home, adoption, legal guardianship, or placement with*
37 *a fit and willing relative, as appropriate. The court shall make*
38 *factual findings identifying any barriers to achieving the permanent*
39 *plan as of the hearing date.* On and after January 1, 2012, the
40 nonminor dependent's legal status as an adult is in and of itself a

1 compelling reason not to hold a hearing pursuant to Section 366.26.
2 The court may order that a nonminor dependent who otherwise is
3 eligible pursuant to Section 11403 remain in a planned, permanent
4 living arrangement. If the court orders that a child who is 10 years
5 of age or older remain in ~~long-term~~ foster care, the court shall
6 determine whether the agency has made reasonable efforts to
7 maintain the child's relationships with individuals other than the
8 child's siblings who are important to the child, consistent with the
9 child's best interests, and may make any appropriate order to ensure
10 that those relationships are maintained. The hearing shall be held
11 no later than 120 days from the date of the subsequent permanency
12 review hearing. The court shall also order termination of
13 reunification services to the parent or legal guardian. The court
14 shall continue to permit the parent or legal guardian to visit the
15 child unless it finds that visitation would be detrimental to the
16 child. The court shall determine whether reasonable services have
17 been offered or provided to the parent or legal guardian. For
18 purposes of this paragraph, evidence of any of the following
19 circumstances shall not, in and of themselves, be deemed a failure
20 to provide or offer reasonable services:

21 (A) The child has been placed with a foster family that is eligible
22 to adopt a child, or has been placed in a preadoptive home.

23 (B) The case plan includes services to make and finalize a
24 permanent placement for the child if efforts to reunify fail.

25 (C) Services to make and finalize a permanent placement for
26 the child, if efforts to reunify fail, are provided concurrently with
27 services to reunify the family.

28 (b) (1) Whenever a court orders that a hearing pursuant to
29 Section 366.26 shall be held, it shall direct the agency supervising
30 the child and the county adoption agency, or the State Department
31 of Social Services when it is acting as an adoption agency, to
32 prepare an assessment that shall include:

33 (A) Current search efforts for an absent parent or parents.

34 (B) A review of the amount of, and nature of, any contact
35 between the child and his or her parents and other members of his
36 or her extended family since the time of placement. Although the
37 extended family of each child shall be reviewed on a case-by-case
38 basis, "extended family" for the purposes of this paragraph shall
39 include, but not be limited to, the child's siblings, grandparents,
40 aunts, and uncles.

1 (C) An evaluation of the child's medical, developmental,
2 scholastic, mental, and emotional status.

3 (D) A preliminary assessment of the eligibility and commitment
4 of any identified prospective adoptive parent or legal guardian,
5 including a prospective tribal customary adoptive parent,
6 particularly the caretaker, to include a social history including
7 screening for criminal records and prior referrals for child abuse
8 or neglect, the capability to meet the child's needs, and the
9 understanding of the legal and financial rights and responsibilities
10 of adoption and guardianship. If a proposed legal guardian is a
11 relative of the minor, the assessment shall also consider, but need
12 not be limited to, all of the factors specified in subdivision (a) of
13 Section 361.3 and in Section 361.4.

14 (E) The relationship of the child to any identified prospective
15 adoptive parent or legal guardian, including a prospective tribal
16 customary adoptive parent, the duration and character of the
17 relationship, the degree of attachment of the child to the prospective
18 relative guardian or adoptive parent, the relative's or adoptive
19 parent's strong commitment to caring permanently for the child,
20 the motivation for seeking adoption or legal guardianship, a
21 statement from the child concerning placement and the adoption
22 or legal guardianship, and whether the child, if over 12 years of
23 age, has been consulted about the proposed relative guardianship
24 arrangements, unless the child's age or physical, emotional, or
25 other condition precludes his or her meaningful response, and if
26 so, a description of the condition.

27 (F) An analysis of the likelihood that the child will be adopted
28 if parental rights are terminated.

29 (G) In the case of an Indian child, in addition to subparagraphs
30 (A) to (F), inclusive, an assessment of the likelihood that the child
31 will be adopted, when, in consultation with the child's tribe, a
32 tribal customary adoption, as defined in Section 366.24, is
33 recommended. If tribal customary adoption is recommended, the
34 assessment shall include an analysis of both of the following:

35 (i) Whether tribal customary adoption would or would not be
36 detrimental to the Indian child and the reasons for reaching that
37 conclusion.

38 (ii) Whether the Indian child cannot or should not be returned
39 to the home of the Indian parent or Indian custodian and the reasons
40 for reaching that conclusion.

1 (2) (A) A relative caregiver's preference for legal guardianship
2 over adoption, if it is due to circumstances that do not include an
3 unwillingness to accept legal or financial responsibility for the
4 child, shall not constitute the sole basis for recommending removal
5 of the child from the relative caregiver for purposes of adoptive
6 placement.

7 (B) Regardless of his or her immigration status, a relative
8 caregiver shall be given information regarding the permanency
9 options of guardianship and adoption, including the long-term
10 benefits and consequences of each option, prior to establishing
11 legal guardianship or pursuing adoption. If the proposed permanent
12 plan is guardianship with an approved relative caregiver for a
13 minor eligible for aid under the Kin-GAP Program, as provided
14 for in Article 4.7 (commencing with Section 11385) of Chapter 2
15 of Part 3 of Division 9, the relative caregiver shall be informed
16 about the terms and conditions of the negotiated agreement
17 pursuant to Section 11387 and shall agree to its execution prior to
18 the hearing held pursuant to Section 366.26. A copy of the executed
19 negotiated agreement shall be attached to the assessment.

20 (c) If, at any hearing held pursuant to Section 366.26, a
21 guardianship is established for the minor with an approved relative
22 caregiver, and juvenile court dependency is subsequently
23 dismissed, the minor shall be eligible for aid under the Kin-GAP
24 Program, as provided for in Article 4.5 (commencing with Section
25 11360) or Article 4.7 (commencing with Section 11385), as
26 applicable, of Chapter 2 of Part 3 of Division 9.

27 (d) As used in this section, "relative" means an adult who is
28 related to the minor by blood, adoption, or affinity within the fifth
29 degree of kinship, including stepparents, stepsiblings, and all
30 relatives whose status is preceded by the words "great,"
31 "great-great," or "grand," or the spouse of any of those persons
32 even if the marriage was terminated by death or dissolution. If the
33 proposed permanent plan is guardianship with an approved relative
34 caregiver for a minor eligible for aid under the Kin-GAP Program,
35 as provided in Article 4.7 (commencing with Section 11385) of
36 Chapter 2 of Part 3 of Division 9, "relative" as used in this section
37 has the same meaning as "relative" as defined in subdivision (c)
38 of Section 11391.

39 ~~(e) The implementation and operation of subdivision (a) enacted~~
40 ~~at the 2005-06 Regular Session shall be subject to appropriation~~

1 ~~through the budget process and by phase, as provided in Section~~
2 ~~366.35.~~

3 *SEC. 14. Section 366.26 of the Welfare and Institutions Code*
4 *is amended to read:*

5 366.26. (a) This section applies to children who are adjudged
6 dependent children of the juvenile court pursuant to subdivision
7 (d) of Section 360. The procedures specified herein are the
8 exclusive procedures for conducting these hearings; Part 2
9 (commencing with Section 3020) of Division 8 of the Family Code
10 is not applicable to these proceedings. Section 8616.5 of the Family
11 Code is applicable and available to all dependent children meeting
12 the requirements of that section, if the postadoption contact
13 agreement has been entered into voluntarily. For children who are
14 adjudged dependent children of the juvenile court pursuant to
15 subdivision (d) of Section 360, this section and Sections 8604,
16 8605, 8606, and 8700 of the Family Code and Chapter 5
17 (commencing with Section 7660) of Part 3 of Division 12 of the
18 Family Code specify the exclusive procedures for permanently
19 terminating parental rights with regard to, or establishing legal
20 guardianship of, the child while the child is a dependent child of
21 the juvenile court.

22 (b) At the hearing, which shall be held in juvenile court for all
23 children who are dependents of the juvenile court, the court, in
24 order to provide stable, permanent homes for these children, shall
25 review the report as specified in Section 361.5, 366.21, 366.22, or
26 366.25, shall indicate that the court has read and considered it,
27 shall receive other evidence that the parties may present, and then
28 shall make findings and orders in the following order of preference:

29 (1) Terminate the rights of the parent or parents and order that
30 the child be placed for adoption and, upon the filing of a petition
31 for adoption in the juvenile court, order that a hearing be set. The
32 court shall proceed with the adoption after the appellate rights of
33 the natural parents have been exhausted.

34 (2) Order, without termination of parental rights, the plan of
35 tribal customary adoption, as described in Section 366.24, through
36 tribal custom, traditions, or law of the Indian child's tribe, and
37 upon the court affording the tribal customary adoption order full
38 faith and credit at the continued selection and implementation
39 hearing, order that a hearing be set pursuant to paragraph (2) of
40 subdivision (e).

1 (3) Appoint a relative or relatives with whom the child is
2 currently residing as legal guardian or guardians for the child, and
3 order that letters of guardianship issue.

4 (4) On making a finding under paragraph (3) of subdivision (c),
5 identify adoption or tribal customary adoption as the permanent
6 placement goal and order that efforts be made to locate an
7 appropriate adoptive family for the child within a period not to
8 exceed 180 days.

9 (5) Appoint a nonrelative legal guardian for the child and order
10 that letters of guardianship issue.

11 (6) Order that the child ~~be placed in long-term~~ *remain in* foster
12 care, subject to *the conditions described in paragraph (4) of*
13 *subdivision (c) and* the periodic review of the juvenile court under
14 Section 366.3.

15 In choosing among the above alternatives the court shall proceed
16 pursuant to subdivision (c).

17 (c) (1) If the court determines, based on the assessment provided
18 as ordered under subdivision (i) of Section 366.21, subdivision (b)
19 of Section 366.22, or subdivision (b) of Section 366.25, and any
20 other relevant evidence, by a clear and convincing standard, that
21 it is likely the child will be adopted, the court shall terminate
22 parental rights and order the child placed for adoption. The fact
23 that the child is not yet placed in a preadoptive home nor with a
24 relative or foster family who is prepared to adopt the child, shall
25 not constitute a basis for the court to conclude that it is not likely
26 the child will be adopted. A finding under subdivision (b) or
27 paragraph (1) of subdivision (e) of Section 361.5 that reunification
28 services shall not be offered, under subdivision (e) of Section
29 366.21 that the whereabouts of a parent have been unknown for
30 six months or that the parent has failed to visit or contact the child
31 for six months, or that the parent has been convicted of a felony
32 indicating parental unfitness, or, under Section 366.21 or 366.22,
33 that the court has continued to remove the child from the custody
34 of the parent or guardian and has terminated reunification services,
35 shall constitute a sufficient basis for termination of parental rights.
36 Under these circumstances, the court shall terminate parental rights
37 unless either of the following applies:

38 (A) The child is living with a relative who is unable or unwilling
39 to adopt the child because of circumstances that do not include an
40 unwillingness to accept legal or financial responsibility for the

1 child, but who is willing and capable of providing the child with
2 a stable and permanent environment through legal guardianship,
3 and the removal of the child from the custody of his or her relative
4 would be detrimental to the emotional well-being of the child. For
5 purposes of an Indian child, “relative” shall include an “extended
6 family member,” as defined in the federal Indian Child Welfare
7 Act (25 U.S.C. Sec. 1903(2)).

8 (B) The court finds a compelling reason for determining that
9 termination would be detrimental to the child due to one or more
10 of the following circumstances:

11 (i) The parents have maintained regular visitation and contact
12 with the child and the child would benefit from continuing the
13 relationship.

14 (ii) A child 12 years of age or older objects to termination of
15 parental rights.

16 (iii) The child is placed in a residential treatment facility,
17 adoption is unlikely or undesirable, and continuation of parental
18 rights will not prevent finding the child a permanent family
19 placement if the parents cannot resume custody when residential
20 care is no longer needed.

21 (iv) The child is living with a foster parent or Indian custodian
22 who is unable or unwilling to adopt the child because of
23 exceptional circumstances, that do not include an unwillingness
24 to accept legal or financial responsibility for the child, but who is
25 willing and capable of providing the child with a stable and
26 permanent environment and the removal of the child from the
27 physical custody of his or her foster parent or Indian custodian
28 would be detrimental to the emotional well-being of the child. This
29 clause does not apply to any child who is either (I) under six years
30 of age or (II) a member of a sibling group where at least one child
31 is under six years of age and the siblings are, or should be,
32 permanently placed together.

33 (v) There would be substantial interference with a child’s sibling
34 relationship, taking into consideration the nature and extent of the
35 relationship, including, but not limited to, whether the child was
36 raised with a sibling in the same home, whether the child shared
37 significant common experiences or has existing close and strong
38 bonds with a sibling, and whether ongoing contact is in the child’s
39 best interest, including the child’s long-term emotional interest,
40 as compared to the benefit of legal permanence through adoption.

(vi) The child is an Indian child and there is a compelling reason for determining that termination of parental rights would not be in the best interest of the child, including, but not limited to:

(I) Termination of parental rights would substantially interfere with the child's connection to his or her tribal community or the child's tribal membership rights.

(II) The child's tribe has identified guardianship, ~~long-term~~ foster care with a fit and willing relative, tribal customary adoption, or another planned permanent living arrangement for the child.

(III) The child is a nonminor dependent, and the nonminor and the nonminor's tribe have identified tribal customary adoption for the nonminor.

(C) For purposes of subparagraph (B), in the case of tribal customary adoptions, Section 366.24 shall apply.

(D) If the court finds that termination of parental rights would be detrimental to the child pursuant to clause (i), (ii), (iii), (iv), (v), or (vi), it shall state its reasons in writing or on the record.

(2) The court shall not terminate parental rights if:

(A) At each hearing at which the court was required to consider reasonable efforts or services, the court has found that reasonable efforts were not made or that reasonable services were not offered or provided.

(B) In the case of an Indian child:

(i) At the hearing terminating parental rights, the court has found that active efforts were not made as required in Section 361.7.

(ii) The court does not make a determination at the hearing terminating parental rights, supported by evidence beyond a reasonable doubt, including testimony of one or more "qualified expert witnesses" as defined in Section 224.6, that the continued custody of the child by the parent is likely to result in serious emotional or physical damage to the child.

(iii) The court has ordered tribal customary adoption pursuant to Section 366.24.

(3) If the court finds that termination of parental rights would not be detrimental to the child pursuant to paragraph (1) and that the child has a probability for adoption but is difficult to place for adoption and there is no identified or available prospective adoptive parent, the court may identify adoption as the permanent placement goal and without terminating parental rights, order that efforts be made to locate an appropriate adoptive family for the child, within

1 the state or out of the state, within a period not to exceed 180 days.
2 During this 180-day period, the public agency responsible for
3 seeking adoptive parents for each child shall, to the extent possible,
4 ask each child who is 10 years of age or older, to identify any
5 individuals, other than the child's siblings, who are important to
6 the child, in order to identify potential adoptive parents. The public
7 agency may ask any other child to provide that information, as
8 appropriate. During the 180-day period, the public agency shall,
9 to the extent possible, contact other private and public adoption
10 agencies regarding the availability of the child for adoption. During
11 the 180-day period, the public agency shall conduct the search for
12 adoptive parents in the same manner as prescribed for children in
13 Sections 8708 and 8709 of the Family Code. At the expiration of
14 this period, another hearing shall be held and the court shall
15 proceed pursuant to paragraph (1), (2), (3), (5), or (6) of subdivision
16 (b). For purposes of this section, a child may only be found to be
17 difficult to place for adoption if there is no identified or available
18 prospective adoptive parent for the child because of the child's
19 membership in a sibling group, or the presence of a diagnosed
20 medical, physical, or mental handicap, or the child is seven years
21 of age or more.

22 (4) (A) If the court finds that adoption of the child or
23 termination of parental rights is not in the best interest of the child,
24 because one of the conditions in clause (i), (ii), (iii), (iv), (v), or
25 (vi) of subparagraph (B) of paragraph (1) or in paragraph (2)
26 applies, the court shall ~~either~~ order that the present caretakers or
27 other appropriate persons shall become legal guardians of the ~~child~~
28 *child*, order that the child remain in ~~long-term~~ foster care, or, in
29 the case of an Indian child, consider a tribal customary adoption
30 pursuant to Section 366.24. Legal guardianship shall be considered
31 before ~~long-term continuation in~~ foster care, if it is in the best
32 interests of the child and if a suitable guardian can be found. *If the*
33 *child continues in foster care, the court shall make factual findings*
34 *identifying any barriers to achieving the permanent plan as of the*
35 *date of the hearing.* A child who is 10 years of age or older, shall
36 be asked to identify any individuals, other than the child's siblings,
37 who are important to the child, in order to identify potential
38 guardians or, in the case of an Indian child, prospective tribal
39 customary adoptive parents. The agency may ask any other child
40 to provide that information, as appropriate.

1 (B) (1) If the child is living with ~~a~~ *an approved* relative ~~or a~~
2 ~~foster parent~~ who is willing and capable of providing a stable and
3 permanent environment, but not willing to become a legal guardian,
4 *guardian as of the hearing date, the court shall order a permanent*
5 *plan of placement with a fit and willing relative, and the child shall*
6 *not be removed from the home if the court finds the removal would*
7 *be seriously detrimental to the emotional well-being of the child*
8 *because the child has substantial psychological ties to the relative*
9 *caretaker or foster parents.*

10 (2) *If the child is living with a nonrelative caregiver who is*
11 *willing and capable of providing a stable and permanent*
12 *environment, but not willing to become a legal guardian as of the*
13 *hearing date, the court shall order that the child remain in foster*
14 *care with a permanent plan of return home, adoption, legal*
15 *guardianship, or placement with a fit and willing relative. If the*
16 *child is 16 years of age or older, or a nonminor dependent, the*
17 *court may order a permanent plan other than return home,*
18 *adoption, legal guardianship, or placement with a fit and willing*
19 *relative. The child shall not be removed from the home if the court*
20 *finds the removal would be seriously detrimental to the emotional*
21 *well-being of the child because the child has substantial*
22 *psychological ties to the caregiver.*

23 (3) *If the child is living in a group home or, on or after January*
24 *1, 2017, a short-term residential treatment center, the court shall*
25 *order that the child remain in foster care with a permanent plan*
26 *of return home, adoption, legal guardianship, or placement with*
27 *a fit and willing relative. If the child is 16 years of age or older,*
28 *or a nonminor dependent, the court may order a permanent plan*
29 *other than return home, adoption, legal guardianship, or placement*
30 *with a fit and willing relative.*

31 (C) The court shall also make an order for visitation with the
32 parents or guardians unless the court finds by a preponderance of
33 the evidence that the visitation would be detrimental to the physical
34 or emotional well-being of the child.

35 (5) If the court finds that the child should not be placed for
36 adoption, that legal guardianship shall not be established, *that*
37 *placement with a fit and willing relative is not appropriate as of*
38 *the hearing date, and that there are no suitable foster parents except*
39 *exclusive-use homes available to provide the child with a stable*
40 *and permanent environment, the court may order the care, custody,*

1 and control of the child transferred from the county welfare
2 department to a licensed foster family agency. The court shall
3 consider the written recommendation of the county welfare director
4 regarding the suitability of the transfer. The transfer shall be subject
5 to further court orders.

6 The licensed foster family agency shall place the child in a
7 suitable licensed or exclusive-use home that has been certified by
8 the agency as meeting licensing standards. The licensed foster
9 family agency shall be responsible for supporting the child and
10 providing appropriate services to the child, including those services
11 ordered by the court. Responsibility for the support of the child
12 shall not, in and of itself, create liability on the part of the foster
13 family agency to third persons injured by the child. Those children
14 whose care, custody, and control are transferred to a foster family
15 agency shall not be eligible for foster care maintenance payments
16 or child welfare services, except for emergency response services
17 pursuant to Section 16504.

18 (d) The proceeding for the appointment of a guardian for a child
19 who is a dependent of the juvenile court shall be in the juvenile
20 court. If the court finds pursuant to this section that legal
21 guardianship is the appropriate permanent plan, it shall appoint
22 the legal guardian and issue letters of guardianship. The assessment
23 prepared pursuant to subdivision (g) of Section 361.5, subdivision
24 (i) of Section 366.21, subdivision (b) of Section 366.22, and
25 subdivision (b) of Section 366.25 shall be read and considered by
26 the court prior to the appointment, and this shall be reflected in
27 the minutes of the court. The person preparing the assessment may
28 be called and examined by any party to the proceeding.

29 (e) (1) The proceeding for the adoption of a child who is a
30 dependent of the juvenile court shall be in the juvenile court if the
31 court finds pursuant to this section that adoption is the appropriate
32 permanent plan and the petition for adoption is filed in the juvenile
33 court. Upon the filing of a petition for adoption, the juvenile court
34 shall order that an adoption hearing be set. The court shall proceed
35 with the adoption after the appellate rights of the natural parents
36 have been exhausted. The full report required by Section 8715 of
37 the Family Code shall be read and considered by the court prior
38 to the adoption and this shall be reflected in the minutes of the
39 court. The person preparing the report may be called and examined
40 by any party to the proceeding. It is the intent of the Legislature,

1 pursuant to this subdivision, to give potential adoptive parents the
2 option of filing in the juvenile court the petition for the adoption
3 of a child who is a dependent of the juvenile court. Nothing in this
4 section is intended to prevent the filing of a petition for adoption
5 in any other court as permitted by law, instead of in the juvenile
6 court.

7 (2) In the case of an Indian child, if the Indian child's tribe has
8 elected a permanent plan of tribal customary adoption, the court,
9 upon receiving the tribal customary adoption order will afford the
10 tribal customary adoption order full faith and credit to the same
11 extent that the court would afford full faith and credit to the public
12 acts, records, judicial proceedings, and judgments of any other
13 entity. Upon a determination that the tribal customary adoption
14 order may be afforded full faith and credit, consistent with Section
15 224.5, the court shall thereafter order a hearing to finalize the
16 adoption be set upon the filing of the adoption petition. The
17 prospective tribal customary adoptive parents and the child who
18 is the subject of the tribal customary adoption petition shall appear
19 before the court for the finalization hearing. The court shall
20 thereafter issue an order of adoption pursuant to Section 366.24.

21 (3) If a child who is the subject of a finalized tribal customary
22 adoption shows evidence of a developmental disability or mental
23 illness as a result of conditions existing before the tribal customary
24 adoption to the extent that the child cannot be relinquished to a
25 licensed adoption agency on the grounds that the child is considered
26 unadoptable, and of which condition the tribal customary adoptive
27 parent or parents had no knowledge or notice before the entry of
28 the tribal customary adoption order, a petition setting forth those
29 facts may be filed by the tribal customary adoptive parent or
30 parents with the juvenile court that granted the tribal customary
31 adoption petition. If these facts are proved to the satisfaction of
32 the juvenile court, it may make an order setting aside the tribal
33 customary adoption order. The set aside petition shall be filed
34 within five years of the issuance of the tribal customary adoption
35 order. The court clerk shall immediately notify the child's tribe
36 and the department in Sacramento of the petition within 60 days
37 after the notice of filing of the petition. The department shall file
38 a full report with the court and shall appear before the court for
39 the purpose of representing the child. Whenever a final decree of
40 tribal customary adoption has been vacated or set aside, the child

1 shall be returned to the custody of the county in which the
2 proceeding for tribal customary adoption was finalized. The
3 biological parent or parents of the child may petition for return of
4 custody. The disposition of the child after the court has entered an
5 order to set aside a tribal customary adoption shall include
6 consultation with the child's tribe.

7 (f) At the beginning of any proceeding pursuant to this section,
8 if the child or the parents are not being represented by previously
9 retained or appointed counsel, the court shall proceed as follows:

10 (1) In accordance with subdivision (c) of Section 317, if a child
11 before the court is without counsel, the court shall appoint counsel
12 unless the court finds that the child would not benefit from the
13 appointment of counsel. The court shall state on the record its
14 reasons for that finding.

15 (2) If a parent appears without counsel and is unable to afford
16 counsel, the court shall appoint counsel for the parent, unless this
17 representation is knowingly and intelligently waived. The same
18 counsel shall not be appointed to represent both the child and his
19 or her parent. The public defender or private counsel may be
20 appointed as counsel for the parent.

21 (3) Private counsel appointed under this section shall receive a
22 reasonable sum for compensation and expenses, the amount of
23 which shall be determined by the court. The amount shall be paid
24 by the real parties in interest, other than the child, in any
25 proportions the court deems just. However, if the court finds that
26 any of the real parties in interest are unable to afford counsel, the
27 amount shall be paid out of the general fund of the county.

28 (g) The court may continue the proceeding for a period of time
29 not to exceed 30 days as necessary to appoint counsel, and to
30 enable counsel to become acquainted with the case.

31 (h) (1) At all proceedings under this section, the court shall
32 consider the wishes of the child and shall act in the best interests
33 of the child.

34 (2) In accordance with Section 349, the child shall be present
35 in court if the child or the child's counsel so requests or the court
36 so orders. If the child is 10 years of age or older and is not present
37 at a hearing held pursuant to this section, the court shall determine
38 whether the minor was properly notified of his or her right to attend
39 the hearing and inquire as to the reason why the child is not present.

1 (3) (A) The testimony of the child may be taken in chambers
2 and outside the presence of the child's parent or parents, if the
3 child's parent or parents are represented by counsel, the counsel
4 is present, and any of the following circumstances exists:

5 (i) The court determines that testimony in chambers is necessary
6 to ensure truthful testimony.

7 (ii) The child is likely to be intimidated by a formal courtroom
8 setting.

9 (iii) The child is afraid to testify in front of his or her parent or
10 parents.

11 (B) After testimony in chambers, the parent or parents of the
12 child may elect to have the court reporter read back the testimony
13 or have the testimony summarized by counsel for the parent or
14 parents.

15 (C) The testimony of a child also may be taken in chambers and
16 outside the presence of the guardian or guardians of a child under
17 the circumstances specified in this subdivision.

18 (i) (1) Any order of the court permanently terminating parental
19 rights under this section shall be conclusive and binding upon the
20 child, upon the parent or parents and upon all other persons who
21 have been served with citation by publication or otherwise as
22 provided in this chapter. After making the order, the juvenile court
23 shall have no power to set aside, change, or modify it, except as
24 provided in paragraph (2), but nothing in this section shall be
25 construed to limit the right to appeal the order.

26 (2) A tribal customary adoption order evidencing that the Indian
27 child has been the subject of a tribal customary adoption shall be
28 afforded full faith and credit and shall have the same force and
29 effect as an order of adoption authorized by this section. The rights
30 and obligations of the parties as to the matters determined by the
31 Indian child's tribe shall be binding on all parties. A court shall
32 not order compliance with the order absent a finding that the party
33 seeking the enforcement participated, or attempted to participate,
34 in good faith, in family mediation services of the court or dispute
35 resolution through the tribe regarding the conflict, prior to the
36 filing of the enforcement action.

37 (3) A child who has not been adopted after the passage of at
38 least three years from the date the court terminated parental rights
39 and for whom the court has determined that adoption is no longer
40 the permanent plan may petition the juvenile court to reinstate

1 parental rights pursuant to the procedure prescribed by Section
2 388. The child may file the petition prior to the expiration of this
3 three-year period if the State Department of Social Services, county
4 adoption agency, or licensed adoption agency that is responsible
5 for custody and supervision of the child as described in subdivision
6 (j) and the child stipulate that the child is no longer likely to be
7 adopted. A child over 12 years of age shall sign the petition in the
8 absence of a showing of good cause as to why the child could not
9 do so. If it appears that the best interests of the child may be
10 promoted by reinstatement of parental rights, the court shall order
11 that a hearing be held and shall give prior notice, or cause prior
12 notice to be given, to the social worker or probation officer and to
13 the child's attorney of record, or, if there is no attorney of record
14 for the child, to the child, and the child's tribe, if applicable, by
15 means prescribed by subdivision (c) of Section 297. The court
16 shall order the child or the social worker or probation officer to
17 give prior notice of the hearing to the child's former parent or
18 parents whose parental rights were terminated in the manner
19 prescribed by subdivision (f) of Section 294 where the
20 recommendation is adoption. The juvenile court shall grant the
21 petition if it finds by clear and convincing evidence that the child
22 is no longer likely to be adopted and that reinstatement of parental
23 rights is in the child's best interest. If the court reinstates parental
24 rights over a child who is under 12 years of age and for whom the
25 new permanent plan will not be reunification with a parent or legal
26 guardian, the court shall specify the factual basis for its findings
27 that it is in the best interest of the child to reinstate parental rights.
28 This subdivision is intended to be retroactive and applies to any
29 child who is under the jurisdiction of the juvenile court at the time
30 of the hearing regardless of the date parental rights were terminated.
31 (j) If the court, by order or judgment, declares the child free
32 from the custody and control of both parents, or one parent if the
33 other does not have custody and control, or declares the child
34 eligible for tribal customary adoption, the court shall at the same
35 time order the child referred to the State Department of Social
36 Services, county adoption agency, or licensed adoption agency for
37 adoptive placement by the agency. However, except in the case
38 of a tribal customary adoption where there is no termination of
39 parental rights, a petition for adoption may not be granted until
40 the appellate rights of the natural parents have been exhausted.

1 The State Department of Social Services, county adoption agency,
2 or licensed adoption agency shall be responsible for the custody
3 and supervision of the child and shall be entitled to the exclusive
4 care and control of the child at all times until a petition for adoption
5 or tribal customary adoption is granted, except as specified in
6 subdivision (n). With the consent of the agency, the court may
7 appoint a guardian of the child, who shall serve until the child is
8 adopted.

9 (k) Notwithstanding any other ~~provision of~~ law, the application
10 of any person who, as a relative caretaker or foster parent, has
11 cared for a dependent child for whom the court has approved a
12 permanent plan for adoption, or who has been freed for adoption,
13 shall be given preference with respect to that child over all other
14 applications for adoptive placement if the agency making the
15 placement determines that the child has substantial emotional ties
16 to the relative caretaker or foster parent and removal from the
17 relative caretaker or foster parent would be seriously detrimental
18 to the child's emotional well-being.

19 As used in this subdivision, "preference" means that the
20 application shall be processed and, if satisfactory, the family study
21 shall be completed before the processing of the application of any
22 other person for the adoptive placement of the child.

23 (l) (1) An order by the court that a hearing pursuant to this
24 section be held is not appealable at any time unless all of the
25 following apply:

26 (A) A petition for extraordinary writ review was filed in a timely
27 manner.

28 (B) The petition substantively addressed the specific issues to
29 be challenged and supported that challenge by an adequate record.

30 (C) The petition for extraordinary writ review was summarily
31 denied or otherwise not decided on the merits.

32 (2) Failure to file a petition for extraordinary writ review within
33 the period specified by rule, to substantively address the specific
34 issues challenged, or to support that challenge by an adequate
35 record shall preclude subsequent review by appeal of the findings
36 and orders made pursuant to this section.

37 (3) The Judicial Council shall adopt rules of court, effective
38 January 1, 1995, to ensure all of the following:

39 (A) A trial court, after issuance of an order directing a hearing
40 pursuant to this section be held, shall advise all parties of the

1 requirement of filing a petition for extraordinary writ review as
2 set forth in this subdivision in order to preserve any right to appeal
3 in these issues. This notice shall be made orally to a party if the
4 party is present at the time of the making of the order or by
5 first-class mail by the clerk of the court to the last known address
6 of a party not present at the time of the making of the order.

7 (B) The prompt transmittal of the records from the trial court
8 to the appellate court.

9 (C) That adequate time requirements for counsel and court
10 personnel exist to implement the objective of this subdivision.

11 (D) That the parent or guardian, or their trial counsel or other
12 counsel, is charged with the responsibility of filing a petition for
13 extraordinary writ relief pursuant to this subdivision.

14 (4) The intent of this subdivision is to do both of the following:

15 (A) Make every reasonable attempt to achieve a substantive and
16 meritorious review by the appellate court within the time specified
17 in Sections 366.21, 366.22, and 366.25 for holding a hearing
18 pursuant to this section.

19 (B) Encourage the appellate court to determine all writ petitions
20 filed pursuant to this subdivision on their merits.

21 (5) This subdivision shall only apply to cases in which an order
22 to set a hearing pursuant to this section is issued on or after January
23 1, 1995.

24 (m) Except for subdivision (j), this section shall also apply to
25 minors adjudged wards pursuant to Section 727.31.

26 (n) (1) Notwithstanding Section 8704 of the Family Code or
27 any other ~~provision of~~ law, the court, at a hearing held pursuant
28 to this section or anytime thereafter, may designate a current
29 caretaker as a prospective adoptive parent if the child has lived
30 with the caretaker for at least six months, the caretaker currently
31 expresses a commitment to adopt the child, and the caretaker has
32 taken at least one step to facilitate the adoption process. In
33 determining whether to make that designation, the court may take
34 into consideration whether the caretaker is listed in the preliminary
35 assessment prepared by the county department in accordance with
36 subdivision (i) of Section 366.21 as an appropriate person to be
37 considered as an adoptive parent for the child and the
38 recommendation of the State Department of Social Services, county
39 adoption agency, or licensed adoption agency.

(2) For purposes of this subdivision, steps to facilitate the adoption process include, but are not limited to, the following:

(A) Applying for an adoption home study.

(B) Cooperating with an adoption home study.

(C) Being designated by the court or the adoption agency as the adoptive family.

(D) Requesting de facto parent status.

(E) Signing an adoptive placement agreement.

(F) Engaging in discussions regarding a postadoption contact agreement.

(G) Working to overcome any impediments that have been identified by the State Department of Social Services, county adoption agency, or licensed adoption agency.

(H) Attending classes required of prospective adoptive parents.

(3) Prior to a change in placement and as soon as possible after a decision is made to remove a child from the home of a designated prospective adoptive parent, the agency shall notify the court, the designated prospective adoptive parent or the current caretaker, if that caretaker would have met the threshold criteria to be designated as a prospective adoptive parent pursuant to paragraph (1) on the date of service of this notice, the child's attorney, and the child, if the child is 10 years of age or older, of the proposal in the manner described in Section 16010.6.

(A) Within five court days or seven calendar days, whichever is longer, of the date of notification, the child, the child's attorney, or the designated prospective adoptive parent may file a petition with the court objecting to the proposal to remove the child, or the court, upon its own motion, may set a hearing regarding the proposal. The court may, for good cause, extend the filing period. A caretaker who would have met the threshold criteria to be designated as a prospective adoptive parent pursuant to paragraph (1) on the date of service of the notice of proposed removal of the child may file, together with the petition under this subparagraph, a petition for an order designating the caretaker as a prospective adoptive parent for purposes of this subdivision.

(B) A hearing ordered pursuant to this paragraph shall be held as soon as possible and not later than five court days after the petition is filed with the court or the court sets a hearing upon its own motion, unless the court for good cause is unable to set the matter for hearing five court days after the petition is filed, in

1 which case the court shall set the matter for hearing as soon as
2 possible. At the hearing, the court shall determine whether the
3 caretaker has met the threshold criteria to be designated as a
4 prospective adoptive parent pursuant to paragraph (1), and whether
5 the proposed removal of the child from the home of the designated
6 prospective adoptive parent is in the child's best interest, and the
7 child may not be removed from the home of the designated
8 prospective adoptive parent unless the court finds that removal is
9 in the child's best interest. If the court determines that the caretaker
10 did not meet the threshold criteria to be designated as a prospective
11 adoptive parent on the date of service of the notice of proposed
12 removal of the child, the petition objecting to the proposed removal
13 filed by the caretaker shall be dismissed. If the caretaker was
14 designated as a prospective adoptive parent prior to this hearing,
15 the court shall inquire into any progress made by the caretaker
16 towards the adoption of the child since the caretaker was designated
17 as a prospective adoptive parent.

18 (C) A determination by the court that the caretaker is a
19 designated prospective adoptive parent pursuant to paragraph (1)
20 or subparagraph (B) does not make the caretaker a party to the
21 dependency proceeding nor does it confer on the caretaker any
22 standing to object to any other action of the department, county
23 adoption agency, or licensed adoption agency, unless the caretaker
24 has been declared a de facto parent by the court prior to the notice
25 of removal served pursuant to paragraph (3).

26 (D) If a petition objecting to the proposal to remove the child
27 is not filed, and the court, upon its own motion, does not set a
28 hearing, the child may be removed from the home of the designated
29 prospective adoptive parent without a hearing.

30 (4) Notwithstanding paragraph (3), if the State Department of
31 Social Services, county adoption agency, or licensed adoption
32 agency determines that the child must be removed from the home
33 of the caretaker who is or may be a designated prospective adoptive
34 parent immediately, due to a risk of physical or emotional harm,
35 the agency may remove the child from that home and is not
36 required to provide notice prior to the removal. However, as soon
37 as possible and not longer than two court days after the removal,
38 the agency shall notify the court, the caretaker who is or may be
39 a designated prospective adoptive parent, the child's attorney, and
40 the child, if the child is 10 years of age or older, of the removal.

1 Within five court days or seven calendar days, whichever is longer,
2 of the date of notification of the removal, the child, the child's
3 attorney, or the caretaker who is or may be a designated prospective
4 adoptive parent may petition for, or the court on its own motion
5 may set, a noticed hearing pursuant to paragraph (3). The court
6 may, for good cause, extend the filing period.

7 (5) Except as provided in subdivision (b) of Section 366.28, an
8 order by the court issued after a hearing pursuant to this subdivision
9 shall not be appealable.

10 (6) Nothing in this section shall preclude a county child
11 protective services agency from fully investigating and responding
12 to alleged abuse or neglect of a child pursuant to Section 11165.5
13 of the Penal Code.

14 (7) The Judicial Council shall prepare forms to facilitate the
15 filing of the petitions described in this subdivision, which shall
16 become effective on January 1, 2006.

17 ~~(e) The implementation and operation of the amendments to~~
18 ~~paragraph (3) of subdivision (c) and subparagraph (A) of paragraph~~
19 ~~(4) of subdivision (c) enacted at the 2005-06 Regular Session shall~~
20 ~~be subject to appropriation through the budget process and by~~
21 ~~phase, as provided in Section 366.35.~~

22 *SEC. 15. Section 366.3 of the Welfare and Institutions Code*
23 *is amended to read:*

24 366.3. (a) If a juvenile court orders a permanent plan of
25 adoption, tribal customary adoption, adoption of a nonminor
26 dependent pursuant to subdivision (f) of Section 366.31, or legal
27 guardianship pursuant to Section 360 or 366.26, the court shall
28 retain jurisdiction over the child or nonminor dependent until the
29 child or nonminor dependent is adopted or the legal guardianship
30 is established, except as provided for in Section 366.29 or, on and
31 after January 1, 2012, Section 366.32. The status of the child or
32 nonminor dependent shall be reviewed every six months to ensure
33 that the adoption or legal guardianship is completed as
34 expeditiously as possible. When the adoption of the child or
35 nonminor dependent has been granted, or in the case of a tribal
36 customary adoption, when the tribal customary adoption order has
37 been afforded full faith and credit and the petition for adoption
38 has been granted, the court shall terminate its jurisdiction over the
39 child or nonminor dependent. Following establishment of a legal
40 guardianship, the court may continue jurisdiction over the child

as a dependent child of the juvenile court or may terminate its dependency jurisdiction and retain jurisdiction over the child as a ward of the legal guardianship, as authorized by Section 366.4. If, however, a relative of the child is appointed the legal guardian of the child and the child has been placed with the relative for at least six months, the court shall, except if the relative guardian objects, or upon a finding of exceptional circumstances, terminate its dependency jurisdiction and retain jurisdiction over the child as a ward of the guardianship, as authorized by Section 366.4. Following a termination of parental rights, the parent or parents shall not be a party to, or receive notice of, any subsequent proceedings regarding the child.

(b) (1) If the court has dismissed dependency jurisdiction following the establishment of a legal guardianship, or no dependency jurisdiction attached because of the granting of a legal guardianship pursuant to Section 360, and the legal guardianship is subsequently revoked or otherwise terminated, the county department of social services or welfare department shall notify the juvenile court of this fact. The court may vacate its previous order dismissing dependency jurisdiction over the child.

~~Notwithstanding~~

(2) *Notwithstanding* Section 1601 of the Probate Code, the proceedings to terminate a legal guardianship that has been granted pursuant to Section 360 or 366.26 shall be held either in the juvenile court that retains jurisdiction over the guardianship as authorized by Section 366.4 or the juvenile court in the county where the guardian and child currently reside, based on the best interests of the child, unless the termination is due to the emancipation or adoption of the child. The juvenile court having jurisdiction over the guardianship shall receive notice from the court in which the petition is filed within five calendar days of the filing. Prior to the hearing on a petition to terminate legal guardianship pursuant to this subdivision, the court shall order the county department of social services or welfare department having jurisdiction or jointly with the county department where the guardian and child currently reside to prepare a report, for the court's consideration, that shall include an evaluation of whether the child could safely remain in, or be returned to, the legal guardian's home, without terminating the legal guardianship, if services were provided to the child or legal guardian. If applicable,

1 the report shall also identify recommended family maintenance or
2 reunification services to maintain the legal guardianship and set
3 forth a plan for providing those services. If the petition to terminate
4 legal guardianship is granted, either juvenile court may resume
5 dependency jurisdiction over the child, and may order the county
6 department of social services or welfare department to develop a
7 new permanent plan, which shall be presented to the court within
8 60 days of the termination. If no dependency jurisdiction has
9 attached, the social worker shall make any investigation he or she
10 deems necessary to determine whether the child may be within the
11 jurisdiction of the juvenile court, as provided in Section 328.

12 ~~Unless~~

13 (3) *Unless* the parental rights of the child's parent or parents
14 have been terminated, they shall be notified that the legal
15 guardianship has been revoked or terminated and shall be entitled
16 to participate in the new permanency planning hearing. The court
17 shall try to place the child in another permanent placement. At the
18 hearing, the parents may be considered as custodians but the child
19 shall not be returned to the parent or parents unless they prove, by
20 a preponderance of the evidence, that reunification is the best
21 alternative for the child. The court may, if it is in the best interests
22 of the child, order that reunification services again be provided to
23 the parent or parents.

24 (c) If, following the establishment of a legal guardianship, the
25 county welfare department becomes aware of changed
26 circumstances that indicate adoption or, for an Indian child, tribal
27 customary adoption, may be an appropriate plan for the child, the
28 department shall so notify the court. The court may vacate its
29 previous order dismissing dependency jurisdiction over the child
30 and order that a hearing be held pursuant to Section 366.26 to
31 determine whether adoption or continued legal guardianship is the
32 most appropriate plan for the child. The hearing shall be held no
33 later than 120 days from the date of the order. If the court orders
34 that a hearing shall be held pursuant to Section 366.26, the court
35 shall direct the agency supervising the child and the county
36 adoption agency, or the State Department of Social Services if it
37 is acting as an adoption agency, to prepare an assessment under
38 subdivision (b) of Section 366.22.

39 (d) If the child or, on and after January 1, 2012, nonminor
40 dependent is in a placement other than the home of a legal guardian

1 and jurisdiction has not been dismissed, the status of the child shall
2 be reviewed at least every six months. The review of the status of
3 a child for whom the court has ordered parental rights terminated
4 and who has been ordered placed for adoption shall be conducted
5 by the court. The review of the status of a child or, on and after
6 January 1, 2012, nonminor dependent for whom the court has not
7 ordered parental rights terminated and who has not been ordered
8 placed for adoption may be conducted by the court or an
9 appropriate local agency. The court shall conduct the review under
10 the following circumstances:

11 (1) Upon the request of the child's parents or legal guardians.

12 (2) Upon the request of the child or, on and after January 1,
13 2012, nonminor dependent.

14 (3) It has been 12 months since a hearing held pursuant to
15 Section 366.26 or an order that the child remain in ~~long-term~~ foster
16 care pursuant to Section 366.21, 366.22, 366.25, 366.26, or
17 subdivision (h).

18 (4) It has been 12 months since a review was conducted by the
19 court.

20 The court shall determine whether or not reasonable efforts to
21 make and finalize a permanent placement for the child have been
22 made.

23 (e) Except as provided in subdivision (g), at the review held
24 every six months pursuant to subdivision (d), the reviewing body
25 shall inquire about the progress being made to provide a permanent
26 home for the child, shall consider the safety of the child, and shall
27 determine all of the following:

28 (1) The continuing necessity for, and appropriateness of, the
29 placement.

30 (2) Identification of individuals other than the child's siblings
31 who are important to a child who is 10 years of age or older and
32 has been in out-of-home placement for six months or longer, and
33 actions necessary to maintain the child's relationship with those
34 individuals, provided that those relationships are in the best interest
35 of the child. The social worker shall ask every child who is 10
36 years of age or older and who has been in out-of-home placement
37 for six months or longer to identify individuals other than the
38 child's siblings who are important to the child, and may ask any
39 other child to provide that information, as appropriate. The social

1 worker shall make efforts to identify other individuals who are
2 important to the child, consistent with the child's best interests.

3 (3) The continuing appropriateness and extent of compliance
4 with the permanent plan for the child, including efforts to maintain
5 relationships between a child who is 10 years of age or older and
6 who has been in out-of-home placement for six months or longer
7 and individuals who are important to the child and efforts to
8 identify a prospective adoptive parent or legal guardian, including,
9 but not limited to, child-specific recruitment efforts and listing on
10 an adoption exchange.

11 (4) The extent of the agency's compliance with the child welfare
12 services case plan in making reasonable efforts either to return the
13 child to the safe home of the parent or to complete whatever steps
14 are necessary to finalize the permanent placement of the child. If
15 the reviewing body determines that a second period of reunification
16 services is in the child's best interests, and that there is a significant
17 likelihood of the child's return to a safe home due to changed
18 circumstances of the parent, pursuant to subdivision (f), the specific
19 reunification services required to effect the child's return to a safe
20 home shall be described.

21 (5) Whether there should be any limitation on the right of the
22 parent or guardian to make educational decisions or developmental
23 services decisions for the child. That limitation shall be specifically
24 addressed in the court order and may not exceed what is necessary
25 to protect the child. If the court specifically limits the right of the
26 parent or guardian to make educational decisions or developmental
27 services decisions for the child, the court shall at the same time
28 appoint a responsible adult to make educational decisions or
29 developmental services decisions for the child pursuant to Section
30 361.

31 (6) The adequacy of services provided to the child. The court
32 shall consider the progress in providing the information and
33 documents to the child, as described in Section 391. The court
34 shall also consider the need for, and progress in providing, the
35 assistance and services described in Section 391.

36 (7) The extent of progress the parents or legal guardians have
37 made toward alleviating or mitigating the causes necessitating
38 placement in foster care.

39 (8) The likely date by which the child may be returned to, and
40 safely maintained in, the home, placed for adoption, legal

1 guardianship, ~~in another planned permanent living arrangement,~~
2 *placed with a fit and willing relative*, or, for an Indian child, in
3 consultation with the child's tribe, placed for tribal customary
4 adoption, *or, if the child is 16 years of age or older, in another*
5 *planned living arrangement*.

6 (9) Whether the child has any siblings under the court's
7 jurisdiction, and, if any siblings exist, all of the following:

8 (A) The nature of the relationship between the child and his or
9 her siblings.

10 (B) The appropriateness of developing or maintaining the sibling
11 relationships pursuant to Section 16002.

12 (C) If the siblings are not placed together in the same home,
13 why the siblings are not placed together and what efforts are being
14 made to place the siblings together, or why those efforts are not
15 appropriate.

16 (D) If the siblings are not placed together, all of the following:

17 (i) The frequency and nature of the visits between the siblings.

18 (ii) If there are visits between the siblings, whether the visits
19 are supervised or unsupervised. If the visits are supervised, a
20 discussion of the reasons why the visits are supervised, and what
21 needs to be accomplished in order for the visits to be unsupervised.

22 (iii) If there are visits between the siblings, a description of the
23 location and length of the visits.

24 (iv) Any plan to increase visitation between the siblings.

25 (E) The impact of the sibling relationships on the child's
26 placement and planning for legal permanence.

27 The factors the court may consider as indicators of the nature of
28 the child's sibling relationships include, but are not limited to,
29 whether the siblings were raised together in the same home,
30 whether the siblings have shared significant common experiences
31 or have existing close and strong bonds, whether either sibling
32 expresses a desire to visit or live with his or her sibling, as
33 applicable, and whether ongoing contact is in the child's best
34 emotional interests.

35 (10) For a child who is 16 years of age or older, and, effective
36 January 1, 2012, for a nonminor dependent, the services needed
37 to assist the child or nonminor dependent to make the transition
38 from foster care to independent living.

1 The reviewing body shall determine whether or not reasonable
2 efforts to make and finalize a permanent placement for the child
3 have been made.

4 Each licensed foster family agency shall submit reports for each
5 child in its care, custody, and control to the court concerning the
6 continuing appropriateness and extent of compliance with the
7 child's permanent plan, the extent of compliance with the case
8 plan, and the type and adequacy of services provided to the child.

9 (f) Unless their parental rights have been permanently
10 terminated, the parent or parents of the child are entitled to receive
11 notice of, and participate in, those hearings. It shall be presumed
12 that continued care is in the best interests of the child, unless the
13 parent or parents prove, by a preponderance of the evidence, that
14 further efforts at reunification are the best alternative for the child.
15 In those cases, the court may order that further reunification
16 services to return the child to a safe home environment be provided
17 to the parent or parents up to a period of six months, and family
18 maintenance services, as needed for an additional six months in
19 order to return the child to a safe home environment. On and after
20 January 1, 2012, this subdivision shall not apply to the parents of
21 a nonminor dependent.

22 (g) At the review conducted by the court and held at least every
23 six months, regarding a child for whom the court has ordered
24 parental rights terminated and who has been ordered placed for
25 adoption, or, for an Indian child for whom parental rights are not
26 being terminated and a tribal customary adoption is being
27 considered, the county welfare department shall prepare and present
28 to the court a report describing the following:

29 (1) The child's present placement.

30 (2) The child's current physical, mental, emotional, and
31 educational status.

32 (3) If the child has not been placed with a prospective adoptive
33 parent or guardian, identification of individuals, other than the
34 child's siblings, who are important to the child and actions
35 necessary to maintain the child's relationship with those
36 individuals, provided that those relationships are in the best interest
37 of the child. The agency shall ask every child who is 10 years of
38 age or older to identify any individuals who are important to him
39 or her, consistent with the child's best interest, and may ask any
40 child who is younger than 10 years of age to provide that

1 information as appropriate. The agency shall make efforts to
2 identify other individuals who are important to the child.

3 (4) Whether the child has been placed with a prospective
4 adoptive parent or parents.

5 (5) Whether an adoptive placement agreement has been signed
6 and filed.

7 (6) If the child has not been placed with a prospective adoptive
8 parent or parents, the efforts made to identify an appropriate
9 prospective adoptive parent or legal guardian, including, but not
10 limited to, child-specific recruitment efforts and listing on an
11 adoption exchange.

12 (7) Whether the final adoption order should include provisions
13 for postadoptive sibling contact pursuant to Section 366.29.

14 (8) The progress of the search for an adoptive placement if one
15 has not been identified.

16 (9) Any impediments to the adoption or the adoptive placement.

17 (10) The anticipated date by which the child will be adopted or
18 placed in an adoptive home.

19 (11) The anticipated date by which an adoptive placement
20 agreement will be signed.

21 (12) Recommendations for court orders that will assist in the
22 placement of the child for adoption or in the finalization of the
23 adoption.

24 The court shall determine whether or not reasonable efforts to
25 make and finalize a permanent placement for the child have been
26 made.

27 The court shall make appropriate orders to protect the stability
28 of the child and to facilitate and expedite the permanent placement
29 and adoption of the child.

30 (h) (1) At the review held pursuant to subdivision (d) for a
31 child in ~~long-term~~ foster care, the court shall consider all
32 permanency planning options for the child including whether the
33 child should be returned to the home of the parent, placed for
34 adoption, or, for an Indian child, in consultation with the child's
35 tribe, placed for tribal customary adoption, or appointed a legal
36 guardian, *placed with a fit and willing relative*, or, if compelling
37 reasons exist for finding that none of the foregoing options are in
38 the best interest of the ~~child~~, *child and the child is 16 years of age*
39 *or older*, whether the child should be placed in another planned
40 permanent living arrangement. The court shall order that a hearing

1 be held pursuant to Section 366.26, unless it determines by clear
2 and convincing evidence that there is a compelling reason for
3 determining that a hearing held pursuant to Section 366.26 is not
4 in the best interest of the child because the child is being returned
5 to the home of the parent, the child is not a proper subject for
6 adoption, or no one is willing to accept legal guardianship *as of*
7 *the hearing date*. If the county adoption agency, or the department
8 when it is acting as an adoption agency, has determined it is
9 unlikely that the child will be adopted or one of the conditions
10 described in paragraph (1) of subdivision (c) of Section 366.26
11 applies, that fact shall constitute a compelling reason for purposes
12 of this subdivision. Only upon that determination may the court
13 order that the child remain in ~~long-term~~ foster care, without holding
14 a hearing pursuant to Section 366.26. *The court shall make factual*
15 *findings identifying any barriers to achieving the permanent plan*
16 *as of the hearing date*. On and after January 1, 2012, the nonminor
17 dependent's legal status as an adult is in and of itself a compelling
18 reason not to hold a hearing pursuant to Section 366.26.

19 (2) *When the child is 16 years of age or older and in a planned*
20 *permanent living arrangement other than return home, adoption,*
21 *legal guardianship, or placement with a fit and willing relative,*
22 *the court shall do all of the following:*

23 (A) *Ask the child about his or her desired permanency outcome.*

24 (B) *Make a judicial determination explaining why, as of the*
25 *hearing date, another planned permanent living arrangement is*
26 *the best permanency plan for the child.*

27 (C) *State for the record the compelling reason or reasons why*
28 *it continues not to be in the best interest of the child to return home,*
29 *be placed for adoption, be placed with a legal guardian, or be*
30 *placed with a fit and willing relative.*

31 (i) If, as authorized by subdivision (h), the court orders a hearing
32 pursuant to Section 366.26, the court shall direct the agency
33 supervising the child and the county adoption agency, or the State
34 Department of Social Services when it is acting as an adoption
35 agency, to prepare an assessment as provided for in subdivision
36 (i) of Section 366.21 or subdivision (b) of Section 366.22. A
37 hearing held pursuant to Section 366.26 shall be held no later than
38 120 days from the date of the 12-month review at which it is
39 ordered, and at that hearing the court shall determine whether
40 adoption, tribal customary adoption, legal guardianship, ~~or~~

1 ~~long-term foster care or, for a child 16 years of age or older,~~
2 ~~another planned living arrangement~~ is the most appropriate plan
3 for the child. On and after January 1, 2012, a hearing pursuant to
4 Section 366.26 shall not be ordered if the child is a nonminor
5 dependent, unless the nonminor dependent is an Indian child and
6 tribal customary adoption is recommended as the permanent plan.
7 The court may order that a nonminor dependent who otherwise is
8 eligible pursuant to Section 11403 remain in a planned, permanent
9 living arrangement. At the request of the nonminor dependent who
10 has an established relationship with an adult determined to be the
11 nonminor dependent's permanent connection, the court may order
12 adoption of the nonminor dependent pursuant to subdivision (f)
13 of Section 366.31.

14 ~~(j) The implementation and operation of the amendments to~~
15 ~~subdivision (e) enacted at the 2005-06 Regular Session shall be~~
16 ~~subject to appropriation through the budget process and by phase,~~
17 ~~as provided in Section 366.35.~~

18 ~~(k)~~
19 (j) The reviews conducted pursuant to subdivision (a) or (d)
20 may be conducted earlier than every six months if the court
21 determines that an earlier review is in the best interests of the child
22 or as court rules prescribe.

23 *SEC. 16. Section 366.31 of the Welfare and Institutions Code*
24 *is amended to read:*

25 366.31. (a) If a review hearing is the last review hearing to be
26 held before the minor attains 18 years of age, the court shall ensure
27 all of the following:

28 (1) The minor's case plan includes a plan for the minor to satisfy
29 one or more of the participation conditions described in paragraphs
30 (1) to (5), inclusive, of subdivision (b) of Section 11403, so that
31 the minor is eligible to remain in foster care as a nonminor
32 dependent.

33 (2) The minor has been informed of his or her right to seek
34 termination of dependency jurisdiction pursuant to Section 391,
35 and understands the potential benefits of continued dependency.

36 (3) The minor is informed of his or her right to have dependency
37 reinstated pursuant to subdivision (e) of Section 388, and
38 understands the potential benefits of continued dependency.

39 (b) At the review hearing that occurs in the six-month period
40 prior to the minor's attaining 18 years of age, and at every

1 subsequent review hearing for the nonminor dependent, as
2 described in subdivision (v) of Section 11400, the report shall
3 describe all of the following:

4 (1) The minor's and nonminor's plans to remain in foster care
5 and plans to meet one or more of the participation conditions as
6 described in paragraphs (1) to (5), inclusive, of subdivision (b) of
7 Section 11403 to continue to receive AFDC-FC benefits as a
8 nonminor dependent.

9 (2) The efforts made and assistance provided to the minor and
10 nonminor by the social worker or the probation officer so that the
11 minor and nonminor will be able to meet the participation
12 conditions.

13 (3) Efforts toward completing the items described in paragraph
14 (2) of subdivision (e) of Section 391.

15 (c) The reviews conducted pursuant to this section for a
16 nonminor dependent shall be conducted in a manner that respects
17 the nonminor's status as a legal adult, focused on the goals and
18 services described in the youth's transitional independent living
19 case plan, as described in subdivision (y) of Section 11400,
20 including efforts made to maintain connections with caring and
21 permanently committed adults, and attended, as appropriate, by
22 additional participants invited by the nonminor dependent.

23 (d) For a nonminor dependent whose case plan is continued
24 court-ordered family reunification services pursuant to Section
25 361.6, the court shall consider whether the nonminor dependent
26 may safely reside in the home of the parent or guardian. If the
27 nonminor cannot reside safely in the home of the parent or guardian
28 or if it is not in the nonminor dependent's best interest to reside
29 in the home of the parent or guardian, the court must consider
30 whether to continue or terminate reunification services for the
31 parent or legal guardian.

32 (1) The review report shall include a discussion of all of the
33 following:

34 (A) Whether foster care placement continues to be necessary
35 and appropriate.

36 (B) The likely date by which the nonminor dependent may reside
37 safely in the home of the parent or guardian or will achieve
38 independence.

39 (C) Whether the parent or guardian and nonminor dependent
40 were actively involved in the development of the case plan.

1 (D) Whether the social worker or probation officer has provided
2 reasonable services designed to aid the parent or guardian to
3 overcome the problems that led to the initial removal of the
4 nonminor dependent.

5 (E) The extent of progress the parents or guardian have made
6 toward alleviating or mitigating the causes necessitating placement
7 in foster care.

8 (F) Whether the nonminor dependent and parent, parents, or
9 guardian are in agreement with the continuation of reunification
10 services.

11 (G) Whether continued reunification services are in the best
12 interest of the nonminor dependent.

13 (H) Whether there is a substantial probability that the nonminor
14 dependent will be able to safely reside in the home of the parent
15 or guardian by the next review hearing date.

16 (I) The efforts to maintain the nonminor's connections with
17 caring and permanently committed adults.

18 (J) The agency's compliance with the nonminor dependent's
19 transitional independent living case plan, including efforts to
20 finalize the nonminor's permanent plan and prepare the nonminor
21 dependent for independence.

22 (K) The progress in providing the information and documents
23 to the nonminor dependent as described in Section 391.

24 (2) The court shall inquire about the progress being made to
25 provide a permanent home for the nonminor, shall consider the
26 safety of the nonminor dependent, and shall determine all of the
27 following:

28 (A) The continuing necessity for, and appropriateness of, the
29 placement.

30 (B) Whether the agency has made reasonable efforts to maintain
31 relationships between the nonminor dependent and individuals
32 who are important to the nonminor dependent.

33 (C) The extent of the agency's compliance with the case plan
34 in making reasonable efforts or, in the case of an Indian child,
35 active efforts, as described in Section 361.7, to create a safe home
36 of the parent or guardian for the nonminor to reside in or to
37 complete whatever steps are necessary to finalize the permanent
38 placement of the nonminor dependent.

39 (D) The extent of the agency's compliance with the nonminor
40 dependent's transitional independent living case plan, including

1 efforts to finalize the youth's permanent plan and prepare the
2 nonminor dependent for independence.

3 (E) The adequacy of services provided to the parent or guardian
4 and to the nonminor dependent. The court shall consider the
5 progress in providing the information and documents to the
6 nonminor dependent as described in Section 391. The court shall
7 also consider the need for, and progress in providing, the assistance
8 and services described in Section 391.

9 (F) The extent of progress the parents or legal guardians have
10 made toward alleviating or mitigating the causes necessitating
11 placement in foster care.

12 (G) The likely date by which the nonminor dependent may
13 safely reside in the home of the parent or guardian or, if the court
14 is terminating reunification services, the likely date by which it is
15 anticipated the nonminor dependent will achieve independence,
16 or, for an Indian child, in consultation with the child's tribe, placed
17 for tribal customary adoption.

18 (H) Whether the agency has made reasonable efforts as required
19 in subparagraph (D) of paragraph (1) of subdivision (a) of Section
20 366 to establish or maintain the nonminor dependent's relationship
21 with his or her siblings who are under the juvenile court's
22 jurisdiction.

23 (I) The services needed to assist the nonminor dependent to
24 make the transition from foster care to independent living.

25 (J) Whether or not reasonable efforts to make and finalize a
26 permanent placement for the nonminor have been made.

27 (3) If the court determines that a nonminor dependent may safely
28 reside in the home of the parent or former guardian, the court may
29 order the nonminor dependent to return to the family home. After
30 the nonminor dependent returns to the family home, the court may
31 terminate jurisdiction and proceed under applicable provisions of
32 Section 391 or continue jurisdiction as a nonminor under
33 subdivision (a) of Section 303 and hold hearings as follows:

34 (A) At every hearing for a nonminor dependent residing in the
35 home of the parent or guardian, the court shall set a hearing within
36 six months of the previous hearing. The court shall advise the
37 parties of their right to be present. At least 10 calendar days before
38 the hearing, the social worker or probation officer shall file a report
39 with the court describing the services offered to the family and the
40 progress made by the family in eliminating the conditions or factors

1 requiring court supervision. The report shall address all of the
2 following:

3 (i) Whether the parent or guardian and the nonminor dependent
4 were actively involved in the development of the case plan.

5 (ii) Whether the social worker or probation officer has provided
6 reasonable services to eliminate the need for court supervision.

7 (iii) The progress of providing information and documents to
8 the nonminor dependent as described in Section 391.

9 (B) The court shall inquire about progress being made, shall
10 consider the safety of the nonminor dependent, and shall determine
11 all of the following:

12 (i) The continuing need for court supervision.

13 (ii) The extent of the agency's compliance with the case plan
14 in making reasonable efforts to maintain a safe family home for
15 the nonminor dependent.

16 (C) If the court finds that court supervision is no longer
17 necessary, the court shall terminate jurisdiction under applicable
18 provisions of Section 391.

19 (e) For a nonminor dependent who is no longer receiving
20 court-ordered family reunification services and is in a permanent
21 plan of *another* planned permanent living arrangement, at the
22 review hearing held every six months pursuant to subdivision (d)
23 of Section 366.3, the reviewing body shall inquire about the
24 progress being made to provide permanent connections with caring,
25 committed adults for the nonminor dependent, shall consider the
26 safety of the nonminor, shall consider the transitional independent
27 living case plan, and shall determine all of the following:

28 (1) The continuing necessity for, and appropriateness of, the
29 placement.

30 (2) The continuing appropriateness and extent of compliance
31 with the permanent plan for the nonminor dependent, including
32 efforts to identify and maintain relationships with individuals who
33 are important to the nonminor dependent.

34 (3) The extent of the agency's compliance with the nonminor
35 dependent's transitional independent living case plan, including
36 whether or not reasonable efforts have been made to make and
37 finalize the youth's permanent plan and prepare the nonminor
38 dependent for independence.

39 (4) Whether a prospective adoptive parent has been identified
40 and assessed as appropriate for the nonminor dependent's adoption

1 under this section, whether the prospective adoptive parent has
2 been informed about the terms of the written negotiated adoption
3 assistance agreement pursuant to Section 16120, and whether
4 adoption should be ordered as the nonminor dependent's permanent
5 plan. If nonminor dependent adoption is ordered as the nonminor
6 dependent's permanent plan, a hearing pursuant to subdivision (f)
7 shall be held within 60 days. When the court orders a hearing
8 pursuant to subdivision (f), it shall direct the agency to prepare a
9 report that shall include the provisions of paragraph (5) of
10 subdivision (f).

11 (5) For the nonminor dependent who is an Indian child, whether,
12 in consultation with the nonminor's tribe, the nonminor should be
13 placed for tribal customary adoption.

14 (6) The adequacy of services provided to the nonminor
15 dependent. The court shall consider the progress in providing the
16 information and documents to the nonminor dependent as described
17 in Section 391. The court shall also consider the need for, and
18 progress in providing, the assistance and services described in
19 Section 391.

20 (7) The likely date by which it is anticipated the nonminor
21 dependent will achieve adoption or independence.

22 (8) Whether the agency has made reasonable efforts as required
23 in subparagraph (D) of paragraph (1) of subdivision (a) of Section
24 366 to establish or maintain the nonminor dependent's relationship
25 with his or her siblings who are under the juvenile court's
26 jurisdiction.

27 (9) The services needed to assist the nonminor dependent to
28 make the transition from foster care to independent living.

29 (10) *When the hearing described in this subdivision is the*
30 *permanency hearing held pursuant to paragraph (3) or (4) of*
31 *subdivision (d) of Section 366, the court shall do all of the*
32 *following:*

33 (A) *Ask the nonminor dependent about his or her desired*
34 *permanency outcome.*

35 (B) *Make a judicial determination explaining why, as of the*
36 *hearing date, another planned permanent living arrangement is*
37 *the best permanency plan for the nonminor dependent.*

38 (C) *State for the record the compelling reason or reasons why*
39 *it continues not to be in the best interest of the nonminor dependent*

1 *to return home, be placed for adoption, be placed with a legal*
2 *guardian, or be placed with a fit and willing relative.*

3 (f) (1) At a hearing to consider a permanent plan of adoption
4 for a nonminor dependent, the court shall read and consider the
5 report in paragraph (5) and receive other evidence that the parties
6 may present. A copy of the executed negotiated agreement shall
7 be attached to the report. If the court finds pursuant to this section
8 that nonminor dependent adoption is the appropriate permanent
9 plan, it shall make findings and orders to do the following:

10 (A) Approve the adoption agreement and declare the nonminor
11 dependent is the adopted child of the adoptive parent, and that the
12 nonminor dependent and adoptive parents agree to assume toward
13 each other the legal relationship of parents and child and to have
14 all of the rights and be subject to all of the duties and
15 responsibilities of that relationship.

16 (B) Declare that the birth parents of the nonminor dependent
17 are, from the time of the adoption, relieved of all parental duties
18 toward, and responsibility for, the adopted nonminor dependent
19 and have no rights over the adopted nonminor dependent.

20 (2) If the court finds that the nonminor dependent and the
21 prospective adoptive parent have mutually consented to the
22 adoption, the court may enter the adoption order after it determines
23 all of the following:

24 (A) Whether the notice was given as required by law.

25 (B) Whether the nonminor dependent and prospective adoptive
26 parent are present for the hearing.

27 (C) Whether the court has read and considered the assessment
28 prepared by the social worker or probation officer.

29 (D) Whether the court considered the wishes of the nonminor
30 dependent.

31 (E) If the nonminor dependent is eligible, the prospective
32 adoptive parent has signed the negotiated adoption assistance
33 agreement pursuant to subdivision (g) of Section 16120, and
34 whether a copy of the executed negotiated agreement is attached
35 to the report.

36 (F) Whether the adoption is in the best interest of the nonminor
37 dependent.

38 (3) If the court orders the establishment of the nonminor
39 dependent adoption, it shall dismiss dependency or transitional
40 jurisdiction.

1 (4) If the court does not order the establishment of the nonminor
2 dependent adoption, the nonminor dependent shall remain in a
3 planned permanent living arrangement subject to periodic review
4 of the juvenile court pursuant to this section.

5 (5) At least 10 calendar days before the hearing, the social
6 worker or probation officer shall file a report with the court and
7 provide a copy of the report to all parties. The report shall describe
8 the following:

9 (A) Whether or not the nonminor dependent has any
10 developmental disability and whether the proposed adoptive parent
11 is suitable to meet the needs of the nonminor dependent.

12 (B) The length and nature of the relationship between the
13 prospective adoptive parent and the nonminor dependent, including
14 whether the prospective adoptive parent has been determined to
15 have been established as the nonminor's permanent connection.

16 (C) Whether the nonminor dependent has been determined to
17 be eligible for the adoption assistance program and, if so, whether
18 the prospective adoptive parent has signed the negotiated adoption
19 assistance agreement pursuant to subdivision (g) of Section 16120.

20 (D) Whether a copy of the executed negotiated agreement is
21 attached to the report.

22 (E) Whether criminal background clearances were completed
23 for the prospective adoptive parent as required by Section
24 671(a)(20)(A) and (a)(20)(C) of Title 42 of the United States Code.

25 (F) Whether the prospective adoptive parent who is married and
26 not legally separated from that spouse has the consent of the
27 spouse, provided that the spouse is capable of giving that consent.

28 (G) Whether the adoption of the nonminor dependent is in the
29 best interests of the nonminor dependent and the prospective
30 adoptive parent.

31 (H) Whether the nonminor dependent and the prospective
32 adoptive parent have mutually consented to the adoption.

33 (6) The social worker or probation officer shall serve written
34 notice of the hearing in the manner and to the persons set forth in
35 Section 295, including the prospective adoptive parent or parents,
36 except that notice to the nonminor's birth parents is not required.

37 (7) Nothing in this section shall prevent a nonminor dependent
38 from filing an adoption petition pursuant to Section 9300 of the
39 Family Code.

(g) Each licensed foster family agency shall submit reports for each nonminor dependent in its care to the court concerning the continuing appropriateness and extent of compliance with the nonminor dependent's permanent plan, the extent of compliance with the transitional independent living case plan, and the type and adequacy of services provided to the nonminor dependent. The report shall document that the nonminor has received all the information and documentation described in paragraph (2) of subdivision (e) of Section 391. If the court is considering terminating dependency jurisdiction for a nonminor dependent it shall first hold a hearing pursuant to Section 391.

SEC. 17. Section 706.5 of the Welfare and Institutions Code is amended to read:

706.5. (a) If placement in foster care is recommended by the probation officer, or where the minor is already in foster care placement or pending placement pursuant to an earlier order, the social study prepared by the probation officer that is received into evidence at disposition pursuant to Section 706 shall include a case plan, as described in Section 706.6. If the court elects to hold the first status review at the disposition hearing, the social study shall also include, but not be limited to, the factual material described in subdivision (c).

(b) If placement in foster care is not recommended by the probation officer prior to disposition, but the court orders foster care placement, the court shall order the probation officer to prepare a case plan, as described in Section 706.6, within 30 days of the placement order. The case plan shall be filed with the court.

(c) At each status review hearing, the social study shall include, but not be limited to, an updated case plan as described in Section 706.6 and the following information:

(1) The continuing necessity for and appropriateness of the placement.

(2) The extent of the probation department's compliance with the case plan in making reasonable efforts to safely return the minor to the minor's home or to complete whatever steps are necessary to finalize the permanent placement of the minor.

(3) The extent of progress that has been made by the minor and parent or guardian toward alleviating or mitigating the causes necessitating placement in foster care.

1 (4) If the first permanency planning hearing has not yet occurred,
2 the social study shall include the likely date by which the minor
3 may be returned to and safely maintained in the home or placed
4 for adoption, appointed a legal guardian, permanently placed with
5 a fit and willing relative, or referred to another planned permanent
6 living arrangement.

7 (5) Whether the minor has been or will be referred to educational
8 services and what services the minor is receiving, including special
9 education and related services if the minor has exceptional needs
10 as described in Part 30 (commencing with Section 56000) of
11 Division 4 of Title 2 of the Education Code or accommodations
12 if the child has disabilities as described in Chapter 16 (commencing
13 with Section 701) of Title 29 of the United States Code Annotated.
14 The probation officer or child advocate shall solicit comments
15 from the appropriate local education agency prior to completion
16 of the social study.

17 (6) If the parent or guardian is unwilling or unable to participate
18 in making an educational or developmental services decision for
19 his or her child, or if other circumstances exist that compromise
20 the ability of the parent or guardian to make educational or
21 developmental services decisions for the child, the probation
22 department shall consider whether the right of the parent or
23 guardian to make educational or developmental services decisions
24 for the minor should be limited. If the study makes that
25 recommendation, it shall identify whether there is a responsible
26 adult available to make educational or developmental services
27 decisions for the minor pursuant to Section 726.

28 (7) *When the minor is 16 years of age or older and in a planned*
29 *permanent living arrangement other than return home, adoption,*
30 *legal guardianship, or placement with a fit and willing relative,*
31 *the social study shall include a description of all of the following:*

32 (A) *The intensive and ongoing efforts to return the minor to the*
33 *home of the parent, place the minor for adoption, or establish a*
34 *legal guardianship, as appropriate.*

35 (B) *The steps taken to do both of the following:*

36 (i) *Ensure that the minor's care provider is following the*
37 *reasonable and prudent parent standard.*

38 (ii) *Ascertain whether the minor has regular, ongoing*
39 *opportunities to engage in age or developmentally appropriate*

1 *activities, including consulting with the minor about opportunities*
2 *for the minor to participate in the activities.*

3 *(8) When the minor is under 16 years of age and has a*
4 *permanent plan of return home, adoption, legal guardianship, or*
5 *placement with a fit and willing relative, the social study shall*
6 *include a description of any barriers to achieving the permanent*
7 *plan and the efforts made by the agency to address those barriers.*

8 (d) At each permanency planning hearing, the social study shall
9 include, but not be limited to, an updated case plan as described
10 in Section 706.6, the factual material described in subdivision (c)
11 of this section, and a recommended permanent plan for the minor.

12 *SEC. 18. Section 706.6 of the Welfare and Institutions Code*
13 *is amended to read:*

14 706.6. A case plan prepared as required by Section 706.5 shall
15 be submitted to the court. It shall either be attached to the social
16 study or incorporated as a separate section within the social study.
17 The case plan shall include, but not be limited to, the following
18 information:

19 (a) A description of the circumstances that resulted in the minor
20 being placed under the supervision of the probation department
21 and in foster care.

22 (b) An assessment of the minor's and family's strengths and
23 needs and the type of placement best equipped to meet those needs.

24 (c) A description of the type of home or institution in which the
25 minor is to be placed, including a discussion of the safety and
26 appropriateness of the placement. An appropriate placement is a
27 placement in the least restrictive, most family-like environment,
28 in closest proximity to the minor's home, that meets the minor's
29 best interests and special needs.

30 (d) Effective January 1, 2010, a case plan shall ensure the
31 educational stability of the child while in foster care and shall
32 include both of the following:

33 (1) Assurances that the placement takes into account the
34 appropriateness of the current educational setting and the proximity
35 to the school in which the child is enrolled at the time of placement.

36 (2) An assurance that the placement agency has coordinated
37 with appropriate local educational agencies to ensure that the child
38 remains in the school in which the child is enrolled at the time of
39 placement, or, if remaining in that school is not in the best interests
40 of the child, assurances by the placement agency and the local

1 educational agency to provide immediate and appropriate
2 enrollment in a new school and to provide all of the child's
3 educational records to the new school.

4 (e) Specific time-limited goals and related activities designed
5 to enable the safe return of the minor to his or her home, or in the
6 event that return to his or her home is not possible, activities
7 designed to result in permanent placement or emancipation.
8 Specific responsibility for carrying out the planned activities shall
9 be assigned to one or more of the following:

10 (1) The probation department.

11 (2) The minor's parent or parents or legal guardian or guardians,
12 as applicable.

13 (3) The minor.

14 (4) The foster parents or licensed agency providing foster care.

15 (f) The projected date of completion of the case plan objectives
16 and the date services will be terminated.

17 (g) (1) Scheduled visits between the minor and his or her family
18 and an explanation if no visits are made.

19 (2) Whether the child has other siblings, and, if any siblings
20 exist, all of the following:

21 (A) The nature of the relationship between the child and his or
22 her siblings.

23 (B) The appropriateness of developing or maintaining the sibling
24 relationships pursuant to Section 16002.

25 (C) If the siblings are not placed together in the same home,
26 why the siblings are not placed together and what efforts are being
27 made to place the siblings together, or why those efforts are not
28 appropriate.

29 (D) If the siblings are not placed together, all of the following:

30 (i) The frequency and nature of the visits between the siblings.

31 (ii) If there are visits between the siblings, whether the visits
32 are supervised or unsupervised. If the visits are supervised, a
33 discussion of the reasons why the visits are supervised, and what
34 needs to be accomplished in order for the visits to be unsupervised.

35 (iii) If there are visits between the siblings, a description of the
36 location and length of the visits.

37 (iv) Any plan to increase visitation between the siblings.

38 (E) The impact of the sibling relationships on the child's
39 placement and planning for legal permanence.

1 (F) The continuing need to suspend sibling interaction, if
2 applicable, pursuant to subdivision (c) of Section 16002.

3 (3) The factors the court may consider in making a determination
4 regarding the nature of the child's sibling relationships may
5 include, but are not limited to, whether the siblings were raised
6 together in the same home, whether the siblings have shared
7 significant common experiences or have existing close and strong
8 bonds, whether either sibling expresses a desire to visit or live with
9 his or her sibling, as applicable, and whether ongoing contact is
10 in the child's best emotional interests.

11 (h) (1) When placement is made in a foster family home, group
12 home, or other child care institution that is either a substantial
13 distance from the home of the minor's parent or legal guardian or
14 out-of-state, the case plan shall specify the reasons why the
15 placement is the most appropriate and is in the best interest of the
16 minor.

17 (2) When an out-of-state group home placement is recommended
18 or made, the case plan shall comply with Section 727.1 and Section
19 7911.1 of the Family Code. In addition, documentation of the
20 recommendation of the multidisciplinary team and the rationale
21 for this particular placement shall be included. The case plan shall
22 also address what in-state services or facilities were used or
23 considered and why they were not recommended.

24 (i) If applicable, efforts to make it possible to place siblings
25 together, unless it has been determined that placement together is
26 not in the best interest of one or more siblings.

27 (j) A schedule of visits between the minor and the probation
28 officer, including a monthly visitation schedule for those children
29 placed in group homes.

30 (k) Health and education information about the minor, school
31 records, immunizations, known medical problems, and any known
32 medications the minor may be taking, names and addresses of the
33 minor's health and educational providers; the minor's grade level
34 performance; assurances that the minor's placement in foster care
35 takes into account proximity to the school in which the minor was
36 enrolled at the time of placement; and other relevant health and
37 educational information.

38 (l) When out-of-home services are used and the goal is
39 reunification, the case plan shall describe the services that were
40 provided to prevent removal of the minor from the home, those

1 services to be provided to assist in reunification and the services
2 to be provided concurrently to achieve legal permanency if efforts
3 to reunify fail.

4 (m) (1) The updated case plan prepared for a permanency
5 planning hearing shall include a recommendation for a permanent
6 plan for the minor. *The identified permanent plan for a minor*
7 *under 16 years of age shall be return home, adoption, legal*
8 *guardianship, or placement with a fit and willing relative. The*
9 *case plan shall identify any barriers to achieving legal permanence*
10 *and the steps the agency will take to address those barriers.* ~~If,~~

11 (2) *If, after considering reunification, adoptive placement, legal*
12 *guardianship, or permanent placement with a fit and willing relative*
13 *the probation officer recommends placement in a planned*
14 *permanent living arrangement, arrangement for a minor 16 years*
15 *of age or older, the case plan shall include documentation of a*
16 *compelling reason or reasons why termination of parental rights*
17 *is not in the minor's best interest. For purposes of this subdivision,*
18 *a "compelling reason" shall have the same meaning as in*
19 *subdivision (c) of Section 727.3. The case plan shall also identify*
20 *the intensive and ongoing efforts to return the minor to the home*
21 *of the parent, place the minor for adoption, establish a legal*
22 *guardianship, or place the minor with a fit and willing relative,*
23 *as appropriate. Efforts shall include the use of technology,*
24 *including social media, to find biological family members of the*
25 *minor.*

26 (n) Each updated case plan shall include a description of the
27 services that have been provided to the minor under the plan and
28 an evaluation of the appropriateness and effectiveness of those
29 services.

30 (o) A statement that the parent or legal guardian, and the minor
31 have had an opportunity to participate in the development of the
32 case plan, to review the case plan, to sign the case plan, and to
33 receive a copy of the plan, or an explanation about why the parent,
34 legal guardian, or minor was not able to participate or sign the case
35 plan.

36 (p) For a minor in out-of-home care who is 16 years of age or
37 older, a written description of the programs and services, which
38 will help the minor prepare for the transition from foster care to
39 independent living.

1 *SEC. 19. Section 727.2 of the Welfare and Institutions Code*
2 *is amended to read:*

3 727.2. The purpose of this section is to provide a means to
4 monitor the safety and well-being of every minor in foster care
5 who has been declared a ward of the juvenile court pursuant to
6 Section 601 or 602 and to ensure that everything reasonably
7 possible is done to facilitate the safe and early return of the minor
8 to his or her home or to establish an alternative permanent plan
9 for the minor.

10 (a) If the court orders the care, custody, and control of the minor
11 to be under the supervision of the probation officer for placement
12 pursuant to subdivision (a) of Section 727, the juvenile court shall
13 order the probation department to ensure the provision of
14 reunification services to facilitate the safe return of the minor to
15 his or her home or the permanent placement of the minor, and to
16 address the needs of the minor while in foster care, except as
17 provided in subdivision (b).

18 (b) Reunification services need not be provided to a parent or
19 legal guardian if the court finds by clear and convincing evidence
20 that one or more of the following is true:

21 (1) Reunification services were previously terminated for that
22 parent or guardian, pursuant to Section 366.21, 366.22, or 366.25,
23 or not offered, pursuant to subdivision (b) of Section 361.5, in
24 reference to the same minor.

25 (2) The parent has been convicted of any of the following:

26 (A) Murder of another child of the parent.

27 (B) Voluntary manslaughter of another child of the parent.

28 (C) Aiding or abetting, attempting, conspiring, or soliciting to
29 commit that murder or manslaughter described in subparagraph
30 (A) or (B).

31 (D) A felony assault that results in serious bodily injury to the
32 minor or another child of the parent.

33 (3) The parental rights of the parent with respect to a sibling
34 have been terminated involuntarily, and it is not in the best interest
35 of the minor to reunify with his or her parent or legal guardian.

36 If no reunification services are offered to the parent or guardian,
37 the permanency planning hearing, as described in Section 727.3,
38 shall occur within 30 days of the date of the hearing at which the
39 decision is made not to offer services.

(c) The status of every minor declared a ward and ordered to be placed in foster care shall be reviewed by the court no less frequently than once every six months. The six-month time periods shall be calculated from the date the minor entered foster care, as defined in paragraph (4) of subdivision (d) of Section 727.4. If the court so elects, the court may declare the hearing at which the court orders the care, custody, and control of the minor to be under the supervision of the probation officer for foster care placement pursuant to subdivision (a) of Section 727 at the first status review hearing. It shall be the duty of the probation officer to prepare a written social study report including an updated case plan, pursuant to subdivision (b) of Section 706.5, and submit the report to the court prior to each status review hearing, pursuant to subdivision (b) of Section 727.4. The social study report shall include all reports the probation officer relied upon in making his or her recommendations.

(d) Prior to any status review hearing involving a minor in the physical custody of a community care facility or foster family agency, the facility or agency may provide the probation officer with a report containing its recommendations. Prior to any status review hearing involving the physical custody of a foster parent, relative caregiver, preadoptive parent, or legal guardian, that person may present to the court a report containing his or her recommendations. The court shall consider all reports and recommendations filed pursuant to subdivision (c) and pursuant to this subdivision.

(e) At any status review hearing prior to the first permanency planning hearing, the court shall consider the safety of the minor and make findings and orders which determine the following:

(1) The continuing necessity for and appropriateness of the placement.

(2) The extent of the probation department's compliance with the case plan in making reasonable efforts, *or in the case of a child 16 years of age or older with a permanent plan other than return home, adoption, legal guardianship, or placement with a fit and willing relative, the ongoing and intensive efforts* to safely return the minor to the minor's home or to complete whatever steps are necessary to finalize the permanent placement of the minor.

(3) Whether there should be any limitation on the right of the parent or guardian to make educational decisions for the minor.

1 That limitation shall be specifically addressed in the court order
2 and may not exceed what is necessary to protect the minor. If the
3 court specifically limits the right of the parent or guardian to make
4 educational decisions for the minor, the court shall at the same
5 time appoint a responsible adult to make educational decisions for
6 the minor pursuant to Section 726.

7 (4) The extent of progress that has been made by the minor and
8 parent or guardian toward alleviating or mitigating the causes
9 necessitating placement in foster care.

10 (5) The likely date by which the minor may be returned to and
11 safely maintained in the home or placed for adoption, appointed
12 a legal guardian, permanently placed with a fit and willing ~~relative~~
13 ~~or relative, or, if the minor is 16 years of age or older,~~ referred to
14 another planned permanent living arrangement.

15 (6) In the case of a minor who has reached 16 years of age, the
16 court shall, in addition, determine the services needed to assist the
17 minor to make the transition from foster care to independent living.

18 The court shall make these determinations on a case-by-case
19 basis and reference in its written findings the probation officer's
20 report and any other evidence relied upon in reaching its decision.

21 (f) At any status review hearing prior to the first permanency
22 hearing, after considering the admissible and relevant evidence,
23 the court shall order return of the minor to the physical custody of
24 his or her parent or legal guardian unless the court finds, by a
25 preponderance of evidence, that the return of the minor to his or
26 her parent or legal guardian would create a substantial risk of
27 detriment to the safety, protection, or physical or emotional
28 well-being of the minor. The probation department shall have the
29 burden of establishing that detriment. In making its determination,
30 the court shall review and consider the social study report,
31 recommendations, and the case plan pursuant to subdivision (b)
32 of Section 706.5, the report and recommendations of any child
33 advocate appointed for the minor in the case, and any other reports
34 submitted to the court pursuant to subdivision (d), and shall
35 consider the efforts or progress, or both, demonstrated by the minor
36 and family and the extent to which the minor availed himself or
37 herself of the services provided.

38 (g) At all status review hearings subsequent to the first
39 permanency planning hearing, the court shall consider the safety
40 of the minor and make the findings and orders as described in

paragraphs (1) to (4), inclusive, and (6) of subdivision (e). The court shall either make a finding that the previously ordered permanent plan continues to be appropriate or shall order that a new permanent plan be adopted pursuant to subdivision (b) of Section 727.3. However, the court shall not order a permanent plan of “return to the physical custody of the parent or legal guardian after further reunification services are offered,” as described in paragraph (2) of subdivision (b) of Section 727.3.

(h) The status review hearings required by subdivision (c) may be heard by an administrative review panel, provided that the administrative panel meets all of the requirements listed in subparagraph (B) of paragraph (7) of subdivision (d) of Section 727.4.

(i) (1) On and after January 1, 2012, at any status review hearing at which a recommendation to terminate delinquency jurisdiction is being considered, or at the status review hearing held closest to the ward attaining 18 years of age, but no fewer than 90 days before the ward’s 18th birthday, the court shall consider whether to modify its jurisdiction pursuant to Section 601 or 602 and assume transition jurisdiction over the minor pursuant to Section 450. The probation department shall address this issue in its report to the court and make a recommendation as to whether transition jurisdiction is appropriate for the minor.

(2) The court shall order the probation department or the minor’s attorney to submit an application to the child welfare services department pursuant to Section 329 to declare the minor a dependent of the court and modify its jurisdiction from delinquency to dependency jurisdiction if it finds both of the following:

(A) The ward does not come within the description set forth in Section 450, but jurisdiction as a ward may no longer be required.

(B) The ward appears to come within the description of Section 300 and cannot be returned home safely.

(3) The court shall set a hearing within 20 judicial days of the date of its order issued pursuant to paragraph (2) to review the decision of the child welfare services department and may either affirm the decision not to file a petition pursuant to Section 300 or order the child welfare services department to file a petition pursuant to Section 300.

(j) On and after January 1, 2012, if a review hearing pursuant to this section is the last review hearing to be held before the minor

1 attains 18 years of age, the court shall ensure that the minor's
2 transitional independent living case plan includes a plan for the
3 minor to meet one or more of the criteria in paragraphs (1) to (5),
4 inclusive, of subdivision (b) of Section 11403, so that the minor
5 can become a nonminor dependent, and that the minor has been
6 informed of his or her right to decline to become a nonminor
7 dependent and to seek termination of the court's jurisdiction
8 pursuant to Section 607.2.

9 *SEC. 20. Section 727.3 of the Welfare and Institutions Code*
10 *is amended to read:*

11 727.3. The purpose of this section is to provide a means to
12 monitor the safety and well-being of every minor in foster care
13 who has been declared a ward of the juvenile court pursuant to
14 Section 601 or 602 and to ensure that everything reasonably
15 possible is done to facilitate the safe and early return of the minor
16 to his or her own home or to establish an alternative permanent
17 plan for the minor.

18 (a) (1) For every minor declared a ward and ordered to be
19 placed in foster care, a permanency planning hearing shall be
20 conducted within 12 months of the date the minor entered foster
21 care, as defined in paragraph (4) of subdivision (d) of Section
22 727.4. Subsequent permanency planning hearings shall be
23 conducted periodically, but no less frequently than once every 12
24 months thereafter during the period of placement. It shall be the
25 duty of the probation officer to prepare a written social study report
26 including an updated case plan and a recommendation for a
27 permanent plan, pursuant to subdivision (c) of Section 706.5, and
28 submit the report to the court prior to each permanency planning
29 hearing, pursuant to subdivision (b) of Section 727.4.

30 (2) Prior to any permanency planning hearing involving a minor
31 in the physical custody of a community care facility or foster family
32 agency, the facility or agency may file with the court a report
33 containing its recommendations, in addition to the probation
34 officer's social study. Prior to any permanency planning hearing
35 involving the physical custody of a foster parent, relative caregiver,
36 preadoptive parent, or legal guardian, that person may present to
37 the court a report containing his or her recommendations. The
38 court shall consider all reports and recommendations filed pursuant
39 to this subdivision.

1 (3) If the minor has a continuing involvement with his or her
2 parents or legal guardians, the parents or legal guardians shall be
3 involved in the planning for a permanent placement. The court
4 order placing the minor in a permanent placement shall include a
5 specification of the nature and frequency of visiting arrangements
6 with the parents or legal guardians.

7 (4) At each permanency planning hearing, the court shall order
8 a permanent plan for the minor, as described in subdivision (b).
9 The court shall also make findings, as described in subdivision (e)
10 of Section 727.2. In the case of a minor who has reached 16 years
11 of age or older, the court shall, in addition, determine the services
12 needed to assist the minor to make the transition from foster care
13 to ~~independent living~~ *successful adulthood*. The court shall make
14 all of these determinations on a case-by-case basis and make
15 reference to the probation officer's report, the case plan, or other
16 evidence relied upon in making its decisions.

17 (5) *When the minor 16 years of age or older is in a planned*
18 *permanent living arrangement other than return home, adoption,*
19 *legal guardianship, or placement with a fit and willing relative,*
20 *the court, at each permanency planning hearing, shall do all of*
21 *the following:*

22 (A) *Ask the minor about his or her desired permanency outcome.*

23 (B) *Make a judicial determination explaining why, as of the*
24 *hearing date, another planned permanent living arrangement is*
25 *the best permanency plan for the minor.*

26 (C) *State for the record the compelling reason or reasons why*
27 *it continues not to be in the best interest of the minor to return*
28 *home, be placed for adoption, be placed with a legal guardian, or*
29 *be placed with a fit and willing relative.*

30 (b) At all permanency planning hearings, the court shall
31 determine the permanent plan for the minor. The court shall order
32 one of the following permanent plans, which are, in order of
33 priority:

34 (1) Return of the minor to the physical custody of the parent or
35 legal guardian. After considering the admissible and relevant
36 evidence, the court shall order the return of the minor to the
37 physical custody of his or her parent or legal guardian unless:

38 (A) Reunification services were not offered, pursuant to
39 subdivision (b) of Section 727.2.

1 (B) The court finds, by a preponderance of the evidence, that
2 the return of the minor to his or her parent or legal guardian would
3 create a substantial risk of detriment to the safety, protection, or
4 physical or emotional well-being of the minor. The probation
5 department shall have the burden of establishing that detriment.
6 In making its determination, the court shall review and consider
7 the social study report and recommendations pursuant to Section
8 706.5, the report and recommendations of any child advocate
9 appointed for the minor in the case, and any other reports submitted
10 pursuant to paragraph (2) of subdivision (a), and shall consider
11 the efforts or progress, or both, demonstrated by the minor and
12 family and the extent to which the minor availed himself or herself
13 of the services provided.

14 (2) Order that the permanent plan for the minor will be to return
15 the minor to the physical custody of the parent or legal guardian,
16 order further reunification services to be provided to the minor
17 and his or her parent or legal guardian for a period not to exceed
18 six months and continue the case for up to six months for a
19 subsequent permanency planning hearing, provided that the
20 subsequent hearing shall occur within 18 months of the date the
21 minor was originally taken from the physical custody of his or her
22 parent or legal guardian. The court shall continue the case only if
23 it finds that there is a substantial probability that the minor will be
24 returned to the physical custody of his or her parent or legal
25 guardian and safely maintained in the home within the extended
26 period of time or that reasonable services have not been provided
27 to the parent or guardian. For purposes of this section, in order to
28 find that there is a substantial probability that the minor will be
29 returned to the physical custody of his or her parent or legal
30 guardian, the court shall be required to find that the minor and his
31 or her parent or legal guardian have demonstrated the capacity and
32 ability to complete the objectives of the case plan.

33 The court shall inform the parent or legal guardian that if the
34 minor cannot be returned home by the next permanency planning
35 hearing, a proceeding pursuant to Section 727.31 may be initiated.

36 The court shall not continue the case for further reunification
37 services if it has been 18 months or more since the date the minor
38 was originally taken from the physical custody of his or her parent
39 or legal guardian.

(3) Identify adoption as the permanent plan and order that a hearing be held within 120 days, pursuant to the procedures described in Section 727.31. The court shall only set a hearing pursuant to Section 727.31 if there is clear and convincing evidence that reasonable services have been provided or offered to the parents. When the court sets a hearing pursuant to Section 727.31, it shall order that an adoption assessment report be prepared, pursuant to subdivision (b) of Section 727.31.

(4) Order a legal guardianship, pursuant to procedures described in subdivisions (c) to (f), inclusive, of Section 728.

(5) Place the minor with a fit and willing relative. “Placement with a fit and willing relative” means placing the minor with an appropriate relative on a permanent basis. When a minor is placed with a fit and willing relative, the court may authorize the relative to provide the same legal consent for the minor’s medical, surgical, and dental care, and education as the custodial parent of the minor.

~~Place~~ (6) *(A) If he or she is 16 years of age or older, place the minor in a planned permanent living arrangement. A “planned permanent living arrangement” means any permanent living arrangement described in Section 11402 and not listed in paragraphs (1) to (5), inclusive, such as placement in a specific, identified foster family home, program, or facility on a permanent basis, or placement in a transitional housing placement facility. When the court places a minor in a planned permanent living arrangement, the court shall specify the goal of the placement, which may include, but shall not be limited to, return home, emancipation, emancipation guardianship, or permanent placement with a relative.*

The court shall only order that the minor remain in a planned permanent living arrangement if the court finds by clear and convincing evidence, based upon the evidence already presented to it that there is a compelling reason, as defined in subdivision (c), for determining that a plan of termination of parental rights and adoption is not in the best interest of the minor.

(B) If the minor is under 16 years of age and the court finds by clear and convincing evidence, based upon the evidence already presented to it, that there is a compelling reason, as defined in subdivision (c), for determining that a plan of termination of parental rights and adoption is not in the best interest of the minor as of the hearing date, the court shall order the minor to remain

1 *in a foster care placement with a permanent plan of return home,*
2 *adoption, legal guardianship, or placement with a fit and willing*
3 *relative. The court shall make factual findings identifying any*
4 *barriers to achieving the permanent plan as of the hearing date.*

5 (c) A compelling reason for determining that a plan of
6 termination of parental rights and adoption is not in the best interest
7 of the minor is any of the following:

8 (1) Documentation by the probation department that adoption
9 is not in the best interest of the minor and is not an appropriate
10 permanency goal. That documentation may include, but is not
11 limited to, documentation that:

12 (A) The minor is 12 years of age or older and objects to
13 termination of parental rights.

14 (B) The minor is 17 years of age or older and specifically
15 requests that transition to independent living with the identification
16 of a caring adult to serve as a lifelong connection be established
17 as his or her permanent plan. On and after January 1, 2012, this
18 includes a minor who requests that his or her transitional
19 independent living case plan include modification of his or her
20 jurisdiction to that of dependency jurisdiction pursuant to
21 subdivision (b) of Section 607.2 or subdivision (i) of Section 727.2,
22 or to that of transition jurisdiction pursuant to Section 450, in order
23 to be eligible as a nonminor dependent for the extended benefits
24 pursuant to Section 11403.

25 (C) The parent or guardian and the minor have a significant
26 bond, but the parent or guardian is unable to care for the minor
27 because of an emotional or physical disability, and the minor's
28 caregiver has committed to raising the minor to the age of majority
29 and facilitating visitation with the disabled parent or guardian.

30 (D) The minor agrees to continued placement in a residential
31 treatment facility that provides services specifically designed to
32 address the minor's treatment needs, and the minor's needs could
33 not be served by a less restrictive placement.

34 The probation department's recommendation that adoption is
35 not in the best interest of the minor shall be based on the present
36 family circumstances of the minor and shall not preclude a different
37 recommendation at a later date if the minor's family circumstances
38 change.

39 (2) Documentation by the probation department that no grounds
40 exist to file for termination of parental rights.

(3) Documentation by the probation department that the minor is an unaccompanied refugee minor, or there are international legal obligations or foreign policy reasons that would preclude terminating parental rights.

(4) A finding by the court that the probation department was required to make reasonable efforts to reunify the minor with the family pursuant to subdivision (a) of Section 727.2, and did not make those efforts.

(5) Documentation by the probation department that the minor is living with a relative who is unable or unwilling to adopt the minor because of exceptional circumstances that do not include an unwillingness to accept legal or financial responsibility for the minor, but who is willing and capable of providing the minor with a stable and permanent home environment, and the removal of the minor from the physical custody of his or her relative would be detrimental to the minor's emotional well-being.

(d) Nothing in this section shall be construed to limit the ability of a parent to voluntarily relinquish his or her child to the State Department of Social Services when it is acting as an adoption agency or to a county adoption agency at any time while the minor is a ward of the juvenile court if the department or county adoption agency is willing to accept the relinquishment.

(e) Any change in the permanent plan of a minor placed with a fit and willing relative or in a planned permanent living arrangement shall be made only by order of the court pursuant to a Section 778 petition or at a regularly scheduled and noticed status review hearing or permanency planning hearing. Any change in the permanent plan of a minor placed in a guardianship shall be made only by order of the court pursuant to a motion filed in accordance with Section 728.

~~SEC. 6.~~

SEC. 21. Section 10618.6 of the Welfare and Institutions Code is amended to read:

10618.6. (a) (1) When a child in a foster care placement reaches his or her 14th birthday, and each year thereafter, while the child is under the jurisdiction of the juvenile court, the county welfare department, county probation department, or, if an automated process is available, the State Department of Social Services, shall inquire of each of the three major credit reporting agencies as to whether the child has any consumer credit history.

1 (2) If the State Department of Social Services makes the inquiry,
2 it shall notify the county welfare department or county probation
3 department in the county having jurisdiction over the child of the
4 results of that inquiry.

5 (3) Pursuant to the federal Child and Family Services
6 Improvement and Innovation Act (Public Law 112-34) and the
7 federal Fair Credit Reporting Act (15 U.S.C. Sec. 1681 et seq.), if
8 an inquiry performed pursuant to this subdivision indicates that a
9 child has a consumer credit history with any major credit reporting
10 agency, the responsible county welfare department or county
11 probation department shall request a consumer credit report from
12 that credit reporting agency.

13 (b) For a nonminor dependent, the county welfare department
14 or county probation department shall assist the young adult, on a
15 yearly basis while the nonminor dependent is under the jurisdiction
16 of the juvenile court, with requesting the consumer credit report
17 from each of the three major credit reporting agencies, pursuant
18 to the free annual disclosure provision of the federal Fair Credit
19 Reporting Act (15 U.S.C. Sec. 1681 et seq.).

20 (c) The county social worker or county probation officer shall
21 ensure that the child or nonminor dependent receives assistance
22 with interpreting the consumer credit report and resolving any
23 inaccuracies. The assistance may include, but is not limited to,
24 referring the youth to a governmental or nonprofit agency that
25 provides consumer credit services. This section does not require
26 the social worker or probation officer to be the individual providing
27 the direct assistance with interpreting the consumer credit
28 disclosure or resolving the inaccuracies.

29 (d) Notwithstanding any other law, in order to make an inquiry
30 or to request a consumer credit report for youth pursuant to this
31 section, the county welfare department, county probation
32 department, or, if an automated process is available, the State
33 Department of Social Services may release necessary information
34 to a credit reporting agency.

35 (e) No later than February 1, 2016, the State Department of
36 Social Services shall provide information to the Assembly
37 Committee on Budget, the Senate Budget and Fiscal Review
38 Committee, and the appropriate legislative policy committees
39 regarding the implementation of this section, including, but not
40 limited to, any state and county barriers to obtaining credit reports

1 as required by the federal Child and Family Services Improvement
2 and Innovation Act (Public Law 112-34).

3 ~~SEC. 7.~~

4 *SEC. 22.* Section 11386 of the Welfare and Institutions Code
5 is amended to read:

6 11386. Aid shall be provided under this article on behalf of a
7 child under 18 years of age, and to any eligible youth under 19
8 years of age, as provided in Section 11403, under all of the
9 following conditions:

10 (a) The child satisfies both of the following requirements:

11 (1) He or she has been removed from his or her home pursuant
12 to a voluntary placement agreement, or as a result of judicial
13 determination, including being adjudged a dependent child of the
14 court, pursuant to Section 300, or a ward of the court, pursuant to
15 Section 601 or 602, to the effect that continuation in the home
16 would be contrary to the welfare of the child.

17 (2) He or she has been eligible for federal foster care
18 maintenance payments under Article 5 (commencing with Section
19 11400) while residing for at least six consecutive months in the
20 approved home of the prospective relative guardian while under
21 the jurisdiction of the juvenile court or a voluntary placement
22 agreement.

23 (b) Being returned to the parental home or being adopted are
24 not appropriate permanency options for the child.

25 (c) The child demonstrates a strong attachment to the relative
26 guardian, and the relative guardian has a strong commitment to
27 caring permanently for the child and, with respect to the child who
28 has attained 12 years of age, the child has been consulted regarding
29 the kinship guardianship arrangement.

30 (d) The child has had a kinship guardianship established
31 pursuant to Section 360 or 366.26.

32 (e) The child has had his or her dependency jurisdiction
33 terminated pursuant to Section 366.3, or his or her wardship
34 terminated pursuant to subdivision (d) of Section 728, concurrently
35 or subsequently to the establishment of the kinship guardianship.

36 (f) If the conditions specified in subdivisions (a) to (e), inclusive,
37 are met and, subsequent to the termination of dependency
38 jurisdiction, any parent or person having an interest files with the
39 juvenile court a petition pursuant to Section 388 to change, modify,
40 or set aside an order of the court, Kin-GAP payments shall continue

1 unless and until the juvenile court orders the child removed from
2 the home of the guardian, terminates the guardianship, or maintains
3 dependency jurisdiction after the court concludes the hearing on
4 the petition filed under Section 388.

5 (g) A child or nonminor former dependent or ward shall be
6 eligible for Kin-GAP payments if he or she meets one of the
7 following age criteria:

8 (1) He or she is under 18 years of age.

9 (2) He or she is under 21 years of age and has a physical or
10 mental disability that warrants the continuation of assistance.

11 (3) Through December 31, 2011, he or she satisfies the
12 conditions of Section 11403, and on and after January 1, 2012, he
13 or she satisfies the conditions of Section 11403.01.

14 (4) He or she satisfies the conditions as described in subdivision
15 (h).

16 (h) Effective January 1, 2012, Kin-GAP payments shall continue
17 for youths who have attained 18 years of age and are under 19
18 years of age, if they reached 16 years of age before the Kin-GAP
19 negotiated agreement payments commenced, and as described in
20 Section 10103.5. Effective January 1, 2013, Kin-GAP payments
21 shall continue for youths who have attained 18 years of age and
22 are under 20 years of age, if they reached 16 years of age before
23 the Kin-GAP negotiated agreement payments commenced, and as
24 described in Section 10103.5. Effective January 1, 2014, Kin-GAP
25 payments shall continue for youths who have attained 18 years of
26 age and are under 21 years of age, if they reached 16 years of age
27 before the Kin-GAP negotiated agreement payments commenced.
28 To be eligible for continued payments, the youth shall satisfy one
29 or more of the conditions specified in paragraphs (1) to (5),
30 inclusive, of subdivision (b) of Section 11403.

31 (i) Termination of the guardianship with a kinship guardian
32 shall terminate eligibility for Kin-GAP, unless the conditions of
33 Section 11403 apply. However, if a successor guardian is appointed
34 pursuant to Section 366.3 who is also a kinship guardian, the
35 successor guardian shall be entitled to receive Kin-GAP on behalf
36 of the child pursuant to this article if the reason for the appointment
37 of the successor guardian is the death or incapacity of the kinship
38 guardian and the successor guardian is named in the kinship
39 guardianship assistance agreement or amendment to the agreement.
40 A new period of six months of placement with the successor

guardian shall not be required if that successor guardian has been assessed pursuant to ~~Section 361.3 and Section~~ *Sections 361.3 and 361.4* and the court terminates dependency jurisdiction, subject to federal approval of amendments to the state plan.

SEC. 23. Section 16002 of the Welfare and Institutions Code is amended to read:

16002. (a) (1) It is the intent of the Legislature to maintain the continuity of the family unit, and ensure the preservation and strengthening of the child's family ties by ensuring that when siblings have been removed from their home, either as a group on one occurrence or individually on separate occurrences, the siblings will be placed in foster care together, unless it has been determined that placement together is contrary to the safety or well-being of any sibling. The Legislature recognizes that in order to ensure the placement of a sibling group in the same foster care placement, placement resources need to be expanded.

(2) It is also the intent of the Legislature to preserve and strengthen a child's sibling relationship so that when a child has been removed from his or her home and he or she has a sibling or siblings who remain in the custody of a mutual parent subject to the court's jurisdiction, the court has the authority to develop a visitation plan for the siblings, unless it has been determined that visitation is contrary to the safety or well-being of any sibling.

(b) The responsible local agency shall make a diligent effort in all out-of-home placements of dependent children and wards in foster care, including those with relatives, to place siblings together in the same placement, and to develop and maintain sibling relationships. If siblings are not placed together in the same home, the social worker or probation officer shall explain why the siblings are not placed together and what efforts he or she is making to place the siblings together or why making those efforts would be contrary to the safety and well-being of any of the siblings. When placement of siblings together in the same home is not possible, a diligent effort shall be made, and a case plan prepared, to provide for ongoing and frequent interaction among siblings until family reunification is achieved, or, if parental rights are terminated, as part of developing the permanent plan for the child. If the court determines by clear and convincing evidence that sibling interaction is contrary to the safety and well-being of any of the siblings, the

1 reasons for the determination shall be noted in the court order, and
2 interaction shall be suspended.

3 (c) When there has been a judicial suspension of sibling
4 interaction, the reasons for the suspension shall be reviewed at
5 each periodic review hearing pursuant to Section 366 or 727.3. In
6 order for the suspension to continue, the court shall make a renewed
7 finding that sibling interaction is contrary to the safety or
8 well-being of either child. When the court determines that sibling
9 interaction can be safely resumed, that determination shall be noted
10 in the court order and the case plan shall be revised to provide for
11 sibling interaction.

12 (d) If the case plan for the child has provisions for sibling
13 interaction, the child, or his or her parent or legal guardian, shall
14 have the right to comment on those provisions. If a person wishes
15 to assert a sibling relationship with a dependent child or ward, he
16 or she may file a petition in the juvenile court having jurisdiction
17 over the dependent child pursuant to subdivision (b) of Section
18 388 or the ward in foster care pursuant to Section 778.

19 (e) If parental rights are terminated and the court orders a
20 dependent child or ward to be placed for adoption, the county
21 adoption agency or the State Department of Social Services shall
22 take all of the following steps to facilitate ongoing sibling contact,
23 except in those cases provided in subdivision (b) where the court
24 determines by clear and convincing evidence that sibling interaction
25 is contrary to the safety or well-being of the child:

26 (1) Include in training provided to prospective adoptive parents
27 information about the importance of sibling relationships to the
28 adopted child and counseling on methods for maintaining sibling
29 relationships.

30 (2) Provide prospective adoptive parents with information about
31 siblings of the child, except the address where the siblings of the
32 children reside. However, this address may be disclosed by court
33 order for good cause shown.

34 (3) Encourage prospective adoptive parents to make a plan for
35 facilitating postadoptive contact between the child who is the
36 subject of a petition for adoption and any siblings of this child.

37 (f) Information regarding sibling interaction, contact, or
38 visitation that has been authorized or ordered by the court shall be
39 provided to the foster parent, relative caretaker, or legal guardian

1 of the child as soon as possible after the court order is made, in
2 order to facilitate the interaction, contact, or visitation.

3 (g) As used in this section, “sibling” means a ~~child related to~~
4 ~~another person~~ *person related to the identified child* by blood,
5 adoption, or affinity through a common legal or biological parent.

6 (h) The court documentation on sibling placements required
7 under this section shall not require the modification of existing
8 court order forms until the Child Welfare Services Case
9 Management System is implemented on a statewide basis.

10 ~~SEC. 8.~~

11 *SEC. 24.* Section 16003 of the Welfare and Institutions Code
12 is amended to read:

13 16003. (a) In order to promote the successful implementation
14 of the statutory preference for foster care placement with a relative
15 caretaker as set forth in Section 7950 of the Family Code, each
16 community college district with a foster care education program
17 shall make available orientation and training, pursuant to Sections
18 1522.44 and 1529.2 of the Health and Safety Code, to the relative
19 or nonrelative extended family member caregiver into whose care
20 the county has placed a foster child. The training shall include, but
21 is not limited to, courses that cover the following:

22 (1) The role, rights, and responsibilities of a relative or
23 nonrelative extended family member caregiver caring for a child
24 in foster care, including the right of a foster child to have fair and
25 equal access to all available services, placement, care, treatment,
26 and benefits, and to not be subjected to discrimination or
27 harassment on the basis of actual or perceived race, ethnic group
28 identification, ancestry, national origin, color, religion, sex, sexual
29 orientation, gender identity, mental or physical disability, or HIV
30 status.

31 (2) An overview of the child protective system.

32 (3) The effects of child abuse and neglect on child development.

33 (4) Positive discipline and the importance of self-esteem.

34 (5) Health issues in foster care.

35 (6) Accessing education and health services that are available
36 to foster children.

37 (7) Relationship and safety issues regarding contact with one
38 or both of the birth parents.

39 (8) Permanency options for relative or nonrelative extended
40 family member caregivers, including legal guardianship, the

1 Kinship Guardianship Assistance Payment Program, and kin
2 adoption.

3 (9) Information on resources available for those who meet
4 eligibility criteria, including out-of-home care payments, the
5 Medi-Cal program, in-home supportive services, and other similar
6 resources.

7 (10) Instruction on cultural competency and sensitivity relating
8 to, and best practices for, providing adequate care to lesbian, gay,
9 bisexual, and transgender youth in out-of-home care.

10 (11) Basic instruction on the existing laws and procedures
11 regarding the safety of foster youth at school and the ensuring of
12 a harassment and violence free school environment contained in
13 the California Student Safety and Violence Prevention Act of 2000
14 (Article 3.6 (commencing with Section 32228) of Chapter 2 of
15 Part 19 of Division 1 of Title 1 of the Education Code).

16 (12) *Knowledge of, and skills related to, the application of the*
17 *reasonable and prudent parent standard for the participation of*
18 *the child in age or developmentally appropriate activities, as set*
19 *forth in Section 1522.44 of the Health and Safety Code.*

20 (b) In addition to training made available pursuant to subdivision
21 (a), each community college district with a foster care education
22 program shall make training available to a relative or nonrelative
23 extended family member caregiver that includes, but need not be
24 limited to, courses that cover all of the following:

- 25 (1) Age-appropriate child development.
26 (2) Health issues in foster care.
27 (3) Positive discipline and the importance of self-esteem.
28 (4) Emancipation and independent living.
29 (5) Accessing education and health services available to foster
30 children.

31 (6) Relationship and safety issues regarding contact with one
32 or both of the birth parents.

33 (7) Permanency options for relative or nonrelative extended
34 family member caregivers, including legal guardianship, the
35 Kinship Guardianship Assistance Payment Program, and kin
36 adoption.

37 (8) Basic instruction on the existing laws and procedures
38 regarding the safety of foster youth at school and the ensuring of
39 a harassment and violence free school environment contained in
40 the California Student Safety and Violence Prevention Act of 2000

(Article 3.6 (commencing with Section 32228) of Chapter 2 of Part 19 of Division 1 of Title 1 of the Education Code).

(9) Knowledge of, and skills related to, the application of the reasonable and prudent parent standard for the participation of the child in age or developmentally appropriate activities, as set forth in Section 1522.44 of the Health and Safety Code.

(c) In addition to the requirements of subdivisions (a) and (b), each community college district with a foster care education program, in providing the orientation program, shall develop appropriate program parameters in collaboration with the counties.

(d) Each community college district with a foster care education program shall make every attempt to make the training and orientation programs for relative or nonrelative extended family member caregivers highly accessible in the communities in which they reside.

(e) When a child is placed with a relative or nonrelative extended family member caregiver, the county shall inform the caregiver of the availability of training and orientation programs and it is the intent of the Legislature that the county shall forward the names and addresses of relative or nonrelative extended family member caregivers to the appropriate community colleges providing the training and orientation programs.

(f) This section shall not be construed to preclude counties from developing or expanding existing training and orientation programs for foster care providers to include relative or nonrelative extended family member caregivers.

~~SEC. 9.~~

SEC. 25. Section 16118 of the Welfare and Institutions Code is amended to read:

16118. (a) The department shall establish and administer the program to be carried out by the department or the county pursuant to this chapter. The department shall adopt any regulations necessary to carry out the provisions of this chapter.

(b) The department shall keep the records necessary to evaluate the program's effectiveness in encouraging and promoting the adoption of children eligible for the Adoption Assistance Program.

(c) The department or the county responsible for providing financial aid in the amount determined in Section 16120 shall have responsibility for certifying that the child meets the eligibility

1 criteria and for determining the amount of financial assistance
2 needed by the child and the adopting family.

3 (d) The department shall actively seek and make maximum use
4 of federal funds that may be available for the purposes of this
5 chapter. In accordance with federal law, any savings realized from
6 the change in federal funding for adoption assistance resulting
7 from the enactment of the federal Fostering Connections to Success
8 and Increasing Adoptions Act of 2008 (Public Law 110-351) shall
9 be spent for the provision of foster care and adoption services, and
10 the counties shall annually report to the department how these
11 savings are spent, including any expenditures for post-adoption
12 services. Not less than 30 percent of these savings shall be spent
13 on postadoption services, postguardianship services, and services
14 to support and sustain positive permanent outcomes for children
15 who otherwise might enter into foster care. Of that 30-percent
16 amount, at least two-thirds shall be spent on postadoption and
17 postguardianship services. The process for submitting this
18 information shall be developed by the department, in consultation
19 with counties. All gifts or grants received from private sources for
20 the purpose of this chapter shall be used to offset public costs
21 incurred under the program established by this chapter.

22 (e) For purposes of this chapter, the county responsible for
23 determining the child's Adoption Assistance Program eligibility
24 status and for providing financial aid in the amount determined in
25 Sections 16120 and 16120.1 shall be the county that, at the time
26 of the adoptive placement, would otherwise be responsible for
27 making a payment pursuant to Section 11450 under the CalWORKs
28 program or Section 11461 under the Aid to Families with
29 Dependent Children-Foster Care program if the child were not
30 adopted. When the child has been voluntarily relinquished for
31 adoption prior to a determination of eligibility for this payment,
32 the responsible county shall be the county in which the
33 relinquishing parent resides. The responsible county for all other
34 eligible children shall be the county where the child is physically
35 residing prior to placement with the adoptive family. The
36 responsible county shall certify eligibility on a form prescribed by
37 the department.

38 (f) Beginning in the 2011–12 fiscal year, and for each fiscal
39 year thereafter, funding and expenditures for programs and
40 activities under this section shall be in accordance with the

1 requirements provided in Sections 30025 and 30026.5 of the
2 Government Code.

3 ~~SEC. 10.~~

4 *SEC. 26.* Section 16131 of the Welfare and Institutions Code
5 is amended to read:

6 16131. It is the intent of the Legislature to conform state
7 statutes to federal legislation, including the Preventing Sex
8 Trafficking and Strengthening Families Act (Public Law 113-183)
9 and the Adoption and Safe Families Act of 1997 (Public Law
10 105-89), and to reinvest any incentive payments received through
11 implementation of the federal act into the child welfare system in
12 order to provide adoption services and other legal permanency
13 options for children.

14 ~~SEC. 11.~~

15 *SEC. 27.* Section 16131.5 of the Welfare and Institutions Code
16 is amended to read:

17 16131.5. (a) The state shall reinvest adoption and guardianship
18 incentive payments received through the implementation of the
19 federal Fostering Connections to Success and Increasing Adoptions
20 Act of 2008 (Public Law 110-351) and the Preventing Sex
21 Trafficking and Strengthening Families Act (Public Law 113-183)
22 into the child welfare system, in order to provide legal permanency
23 outcomes for older children, including, but not limited to, adoption,
24 guardianship, and reunification of children whose reunification
25 services were previously terminated.

26 (b) The incentive payments received pursuant to subdivision
27 (a), upon appropriation by the Legislature in the annual Budget
28 Act or another statute, shall be allocated by the State Department
29 of Social Services to the counties, and the department for a county
30 in which the department serves as an adoption agency, based on
31 documented increases in legal permanency outcomes for older
32 children achieved by each county, as determined by the department,
33 in consultation with counties, for the purposes specified in this
34 section.

35 (c) A county, or the department when it acts as the adoption
36 agency for a county, shall use adoption and guardianship incentive
37 payment funds to improve or sustain legal permanency outcomes
38 for older children.

(d) Nothing in this section shall be construed to supplant funds currently being spent on programs to provide legal permanency outcomes.

~~SEC. 12.~~

SEC. 28. Section 16501.1 of the Welfare and Institutions Code is amended to read:

16501.1. (a) (1) The Legislature finds and declares that the foundation and central unifying tool in child welfare services is the case plan.

(2) The Legislature further finds and declares that a case plan ensures that the child receives protection and safe and proper care and case management, and that services are provided to the child and parents or other caretakers, as appropriate, in order to improve conditions in the parent's home, to facilitate the safe return of the child to a safe home or the permanent placement of the child, and to address the needs of the child while in foster care.

(b) (1) A case plan shall be based upon the principles of this section and shall document that a preplacement assessment of the service needs of the child and family, and preplacement preventive services, have been provided, and that reasonable efforts to prevent out-of-home placement have been made.

(2) In determining the reasonable services to be offered or provided, the child's health and safety shall be the paramount concerns.

(3) Upon a determination pursuant to paragraph (1) of subdivision (e) of Section 361.5 that reasonable services will be offered to a parent who is incarcerated in a county jail or state prison, detained by the United States Department of Homeland Security, or deported to his or her country of origin, the case plan shall include information, to the extent possible, about a parent's incarceration in a county jail or the state prison, detention by the United States Department of Homeland Security, or deportation during the time that a minor child of that parent is involved in dependency care.

(4) Reasonable services shall be offered or provided to make it possible for a child to return to a safe home environment, unless, pursuant to subdivisions (b) and (e) of Section 361.5, the court determines that reunification services shall not be provided.

(5) If reasonable services are not ordered, or are terminated, reasonable efforts shall be made to place the child in a timely

1 manner in accordance with the permanent plan and to complete
2 all steps necessary to finalize the permanent placement of the child.

3 (c) (1) If out-of-home placement is used to attain case plan
4 goals, the case plan shall include a description of the type of home
5 or institution in which the child is to be placed, and the reasons
6 for that placement decision. The decision regarding choice of
7 placement shall be based upon selection of a safe setting that is
8 the least restrictive or most familylike and the most appropriate
9 setting that is available and in close proximity to the parent's home,
10 proximity to the child's school, and consistent with the selection
11 of the environment best suited to meet the child's special needs
12 and best interests. The selection shall consider, in order of priority,
13 placement with relatives, nonrelated extended family members,
14 tribal members, and foster family homes, certified homes of foster
15 family agencies, intensive treatment or multidimensional treatment
16 foster care homes, group care placements, such as group homes
17 and community treatment facilities, and residential treatment
18 pursuant to Section 7950 of the Family Code.

19 (2) If a group care placement is selected for a child, the case
20 plan shall indicate the needs of the child that necessitate this
21 placement, the plan for transitioning the child to a less restrictive
22 environment, and the projected timeline by which the child will
23 be transitioned to a less restrictive environment. This section of
24 the case plan shall be reviewed and updated at least semiannually.

25 (3) On or after January 1, 2012, for a nonminor dependent, as
26 defined in subdivision (v) of Section 11400, who is receiving
27 AFDC-FC benefits up to 21 years of age pursuant to Section 11403,
28 in addition to the above requirements, the selection of the
29 placement, including a supervised independent living placement,
30 as described in subdivision (w) of Section 11400, shall also be
31 based upon the developmental needs of young adults by providing
32 opportunities to have incremental responsibilities that prepare a
33 nonminor dependent to transition to successful adulthood. If
34 admission to, or continuation in, a group home placement is being
35 considered for a nonminor dependent, the group home placement
36 approval decision shall include a youth-driven, team-based case
37 planning process, as defined by the department, in consultation
38 with stakeholders. The case plan shall consider the full range of
39 placement options, and shall specify why admission to, or
40 continuation in, a group home placement is the best alternative

1 available at the time to meet the special needs or well-being of the
2 nonminor dependent, and how the placement will contribute to the
3 nonminor dependent's transition to successful adulthood. The case
4 plan shall specify the treatment strategies that will be used to
5 prepare the nonminor dependent for discharge to a less restrictive
6 and more familylike setting, including a target date for discharge
7 from the group home placement. The placement shall be reviewed
8 and updated on a regular, periodic basis to ensure that continuation
9 in the group home remains in the best interests of the nonminor
10 dependent and that progress is being made in achieving case plan
11 goals leading to successful adulthood. The group home placement
12 planning process shall begin as soon as it becomes clear to the
13 county welfare department or probation office that a foster child
14 in group home placement is likely to remain in group home
15 placement on his or her 18th birthday, in order to expedite the
16 transition to a less restrictive and more familylike setting if he or
17 she becomes a nonminor dependent. The case planning process
18 shall include informing the youth of all of his or her options,
19 including, but not limited to, admission to or continuation in a
20 group home placement. Consideration for continuation of existing
21 group home placement for a nonminor dependent under 19 years
22 of age may include the need to stay in the same placement in order
23 to complete high school. After a nonminor dependent either
24 completes high school or attains his or her 19th birthday, whichever
25 is earlier, continuation in or admission to a group home is
26 prohibited unless the nonminor dependent satisfies the conditions
27 of paragraph (5) of subdivision (b) of Section 11403, and group
28 home placement functions as a short-term transition to the
29 appropriate system of care. Treatment services provided by the
30 group home placement to the nonminor dependent to alleviate or
31 ameliorate the medical condition, as described in paragraph (5) of
32 subdivision (b) of Section 11403, shall not constitute the sole basis
33 to disqualify a nonminor dependent from the group home
34 placement.

35 (4) In addition to the requirements of paragraphs (1) to (3),
36 inclusive, and taking into account other statutory considerations
37 regarding placement, the selection of the most appropriate home
38 that will meet the child's special needs and best interests shall also
39 promote educational stability by taking into consideration
40 proximity to the child's school of origin, and school attendance

1 area, the number of school transfers the child has previously
2 experienced, and the child's school matriculation schedule, in
3 addition to other indicators of educational stability that the
4 Legislature hereby encourages the State Department of Social
5 Services and the State Department of Education to develop.

6 (d) A written case plan shall be completed within a maximum
7 of 60 days of the initial removal of the child or of the in-person
8 response required under subdivision (f) of Section 16501 if the
9 child has not been removed from his or her home, or by the date
10 of the dispositional hearing pursuant to Section 358, whichever
11 occurs first. The case plan shall be updated, as the service needs
12 of the child and family dictate. At a minimum, the case plan shall
13 be updated in conjunction with each status review hearing
14 conducted pursuant to Sections 364, 366, 366.3, and 366.31, and
15 the hearing conducted pursuant to Section 366.26, but no less
16 frequently than once every six months. Each updated case plan
17 shall include a description of the services that have been provided
18 to the child under the plan and an evaluation of the appropriateness
19 and effectiveness of those services.

20 (1) It is the intent of the Legislature that extending the maximum
21 time available for preparing a written case plan from 30 to 60 days
22 will afford caseworkers time to actively engage families, and to
23 solicit and integrate into the case plan the input of the child and
24 the child's family, as well as the input of relatives and other
25 interested parties.

26 (2) The extension of the maximum time available for preparing
27 a written case plan from the 30 to 60 days shall be effective 90
28 days after the date that the department gives counties written notice
29 that necessary changes have been made to the Child Welfare
30 Services Case Management System to account for the 60-day
31 timeframe for preparing a written case plan.

32 (e) The child welfare services case plan shall be comprehensive
33 enough to meet the juvenile court dependency proceedings
34 requirements pursuant to Article 6 (commencing with Section 300)
35 of Chapter 2 of Part 1 of Division 2.

36 (f) The case plan shall be developed as follows:

37 (1) The case plan shall be based upon an assessment of the
38 circumstances that required child welfare services intervention.
39 The child shall be involved in developing the case plan as age and
40 developmentally appropriate.

1 (2) The case plan shall identify specific goals and the
2 appropriateness of the planned services in meeting those goals.

3 (3) The case plan shall identify the original allegations of abuse
4 or neglect, as defined in Article 2.5 (commencing with Section
5 11164) of Chapter 2 of Title 1 of Part 4 of the Penal Code, or the
6 conditions cited as the basis for declaring the child a dependent of
7 the court pursuant to Section 300, or all of these, and the other
8 precipitating incidents that led to child welfare services
9 intervention.

10 (4) The case plan shall include a description of the schedule of
11 the placement agency contacts with the child and the family or
12 other caretakers. The frequency of these contacts shall be in
13 accordance with regulations adopted by the State Department of
14 Social Services. If the child has been placed in foster care out of
15 state, the county social worker or probation officer, or a social
16 worker or probation officer on the staff of the agency in the state
17 in which the child has been placed, shall visit the child in a foster
18 family home or the home of a relative, consistent with federal law
19 and in accordance with the department's approved state plan. For
20 children in out-of-state group home facilities, visits shall be
21 conducted at least monthly, pursuant to Section 16516.5. At least
22 once every six months, at the time of a regularly scheduled
23 placement agency contact with the foster child, the child's social
24 worker or probation officer shall inform the child of his or her
25 rights as a foster child, as specified in Section 16001.9. The social
26 worker or probation officer shall provide the information to the
27 child in a manner appropriate to the age or developmental level of
28 the child.

29 (5) (A) When out-of-home services are used, the frequency of
30 contact between the natural parents or legal guardians and the child
31 shall be specified in the case plan. The frequency of those contacts
32 shall reflect overall case goals, and consider other principles
33 outlined in this section.

34 (B) Information regarding any court-ordered visitation between
35 the child and the natural parents or legal guardians, and the terms
36 and conditions needed to facilitate the visits while protecting the
37 safety of the child, shall be provided to the child's out-of-home
38 caregiver as soon as possible after the court order is made.

39 (6) When out-of-home placement is made, the case plan shall
40 include provisions for the development and maintenance of sibling

relationships as specified in subdivisions (b), (c), and (d) of Section 16002. If appropriate, when siblings who are dependents of the juvenile court are not placed together, the social worker for each child, if different, shall communicate with each of the other social workers and ensure that the child's siblings are informed of significant life events that occur within their extended family. Unless it has been determined that it is inappropriate in a particular case to keep siblings informed of significant life events that occur within the extended family, the social worker shall determine the appropriate means and setting for disclosure of this information to the child commensurate with the child's age and emotional well-being. These significant life events shall include, but shall not be limited to, the following:

(A) The death of an immediate relative.

(B) The birth of a sibling.

(C) Significant changes regarding a dependent child, unless the child objects to the sharing of the information with his or her siblings, including changes in placement, major medical or mental health diagnoses, treatments, or hospitalizations, arrests, and changes in the permanent plan.

(7) If out-of-home placement is made in a foster family home, group home, or other child care institution that is either a substantial distance from the home of the child's parent or out of state, the case plan shall specify the reasons why that placement is in the best interest of the child. When an out-of-state group home placement is recommended or made, the case plan shall, in addition, specify compliance with Section 7911.1 of the Family Code.

(8) Effective January 1, 2010, a case plan shall ensure the educational stability of the child while in foster care and shall include both of the following:

(A) An assurance that the placement takes into account the appropriateness of the current educational setting and the proximity to the school in which the child is enrolled at the time of placement.

(B) An assurance that the placement agency has coordinated with the person holding the right to make educational decisions for the child and appropriate local educational agencies to ensure that the child remains in the school in which the child is enrolled at the time of placement or, if remaining in that school is not in the best interests of the child, assurances by the placement agency

1 and the local educational agency to provide immediate and
2 appropriate enrollment in a new school and to provide all of the
3 child's educational records to the new school.

4 (9) (A) If out-of-home services are used, or if parental rights
5 have been terminated and the case plan is placement for adoption,
6 the case plan shall include a recommendation regarding the
7 appropriateness of unsupervised visitation between the child and
8 any of the child's siblings. This recommendation shall include a
9 statement regarding the child's and the siblings' willingness to
10 participate in unsupervised visitation. If the case plan includes a
11 recommendation for unsupervised sibling visitation, the plan shall
12 also note that information necessary to accomplish this visitation
13 has been provided to the child or to the child's siblings.

14 (B) Information regarding the schedule and frequency of the
15 visits between the child and siblings, as well as any court-ordered
16 terms and conditions needed to facilitate the visits while protecting
17 the safety of the child, shall be provided to the child's out-of-home
18 caregiver as soon as possible after the court order is made.

19 (10) If out-of-home services are used and the goal is
20 reunification, the case plan shall describe the services to be
21 provided to assist in reunification and the services to be provided
22 concurrently to achieve legal permanency if efforts to reunify fail.
23 The plan shall also consider in-state and out-of-state placements,
24 the importance of developing and maintaining sibling relationships
25 pursuant to Section 16002, and the desire and willingness of the
26 caregiver to provide legal permanency for the child if reunification
27 is unsuccessful.

28 (11) If out-of-home services are used, the child has been in care
29 for at least 12 months, and the goal is not adoptive placement, the
30 case plan shall include documentation of the compelling reason
31 or reasons why termination of parental rights is not in the child's
32 best interest. A determination completed or updated within the
33 past 12 months by the department when it is acting as an adoption
34 agency or by a licensed adoption agency that it is unlikely that the
35 child will be adopted, or that one of the conditions described in
36 paragraph (1) of subdivision (c) of Section 366.26 applies, shall
37 be deemed a compelling reason.

38 (12) (A) Parents and legal guardians shall have an opportunity
39 to review the case plan, and to sign it whenever possible, and then
40 shall receive a copy of the plan. In a voluntary service or placement

1 agreement, the parents or legal guardians shall be required to
2 review and sign the case plan. Whenever possible, parents and
3 legal guardians shall participate in the development of the case
4 plan. Commencing January 1, 2012, for nonminor dependents, as
5 defined in subdivision (v) of Section 11400, who are receiving
6 AFDC-FC or CalWORKs assistance up to 21 years of age pursuant
7 to Section 11403, the transitional independent living case plan, as
8 set forth in subdivision (y) of Section 11400, shall be developed
9 with, and signed by, the nonminor.

10 (B) Parents and legal guardians shall be advised that, pursuant
11 to Section 1228.1 of the Evidence Code, neither their signature on
12 the child welfare services case plan nor their acceptance of any
13 services prescribed in the child welfare services case plan shall
14 constitute an admission of guilt or be used as evidence against the
15 parent or legal guardian in a court of law. However, they shall also
16 be advised that the parent's or guardian's failure to cooperate,
17 except for good cause, in the provision of services specified in the
18 child welfare services case plan may be used in any hearing held
19 pursuant to Section 366.21, 366.22, or 366.25 of this code as
20 evidence.

21 (13) A child shall be given a meaningful opportunity to
22 participate in the development of the case plan and state his or her
23 preference for foster care placement. A child who is 12 years of
24 age or older and in a permanent placement shall also be given the
25 opportunity to review the case plan, sign the case plan, and receive
26 a copy of the case plan.

27 (14) The case plan shall be included in the court report and shall
28 be considered by the court at the initial hearing and each review
29 hearing. Modifications to the case plan made during the period
30 between review hearings need not be approved by the court if the
31 casework supervisor for that case determines that the modifications
32 further the goals of the plan. If out-of-home services are used with
33 the goal of family reunification, the case plan shall consider and
34 describe the application of subdivision (b) of Section 11203.

35 (15) (A) If the case plan has as its goal for the child a permanent
36 plan of adoption or ~~placement in another permanent home~~, *legal*
37 *guardianship*, it shall include a statement of the child's wishes
38 regarding their permanent placement plan and an assessment of
39 those stated wishes. The agency shall also include documentation
40 of the steps the agency is taking to find an adoptive family or other

1 permanent living arrangements for the child; to place the child
2 with an adoptive family, an appropriate and willing relative, *or* a
3 legal guardian, ~~or in another planned permanent living~~
4 ~~arrangement~~; and to finalize the adoption or legal guardianship.

5 At a minimum, the documentation shall include child-specific
6 recruitment efforts, such as the use of state, regional, and national
7 adoption exchanges, including electronic exchange systems, when
8 the child has been freed for adoption. *Regardless of whether the*
9 *child has been freed for adoption, documentation shall include a*
10 *description of any barriers to achieving legal permanence and the*
11 *steps the agency will take to address those barriers.* If the plan is
12 for kinship guardianship, the case plan shall document how the
13 child meets the kinship guardianship eligibility requirements.

14 (B) *When the child is 16 years of age or older and is in a*
15 *planned permanent living arrangement other than return home,*
16 *adoption, legal guardianship, or placement with a fit and willing*
17 *relative, the case plan shall identify the intensive and ongoing*
18 *efforts to return the child to the home of the parent, place the child*
19 *for adoption, establish a legal guardianship, or place the child*
20 *nonminor dependent with a fit and willing relative, as appropriate.*
21 *Efforts shall include the use of technology, including social media,*
22 *to find biological family members of the child.*

23 (16) (A) When appropriate, for a child who is 16 years of age
24 or older and, commencing January 1, 2012, for a nonminor
25 dependent, the case plan shall include the transitional independent
26 living plan (TILP), a written description of the programs and
27 services that will help the child, consistent with the child's best
28 interests, to prepare for the transition from foster care to successful
29 adulthood, and, in addition, whether the youth has an in-progress
30 application pending for Title XVI Supplemental Security Income
31 benefits or for Special Immigrant Juvenile Status or other
32 applicable application for legal residency and an active dependency
33 case is required for that application. When appropriate, for a
34 nonminor dependent, the transitional independent living case plan,
35 as described in subdivision (v) of Section 11400, shall include the
36 TILP, a written description of the programs and services that will
37 help the nonminor dependent, consistent with his or her best
38 interests, to prepare for transition from foster care and assist the
39 youth in meeting the eligibility criteria set forth in paragraphs (1)
40 to (5), inclusive, of subdivision (b) of Section 11403. If applicable,

1 the case plan shall describe the individualized supervision provided
2 in the supervised independent living placement as defined in
3 subdivision (w) of Section 11400. The case plan shall be developed
4 with the child or nonminor dependent and individuals identified
5 as important to the child or nonminor dependent, and shall include
6 steps the agency is taking to ensure that the child or nonminor
7 dependent achieves permanence, including maintaining or
8 obtaining permanent connections to caring and committed adults.

9 (B) During the 90-day period prior to the participant attaining
10 18 years of age or older as the state may elect under Section
11 475(8)(B)(iii) of the federal Social Security Act (42 U.S.C. Sec.
12 675(8)(B)(iii)), whether during that period foster care maintenance
13 payments are being made on the child's behalf or the child is
14 receiving benefits or services under Section 477 of the federal
15 Social Security Act (42 U.S.C. Sec. 677), a caseworker or other
16 appropriate agency staff or probation officer and other
17 representatives of the participant, as appropriate, shall provide the
18 youth or nonminor with assistance and support in developing the
19 written 90-day transition plan, that is personalized at the direction
20 of the child, information as detailed as the participant elects that
21 shall include, but not be limited to, options regarding housing,
22 health insurance, education, local opportunities for mentors and
23 continuing support services, and workforce supports and
24 employment services, a power of attorney for health care, and
25 information regarding the advance health care directive form.

26 (C) For youth 14 years of age or older, the case plan shall
27 include documentation that a consumer credit report was requested
28 annually from each of the three major credit reporting agencies at
29 no charge to the youth and that any results were provided to the
30 youth. For nonminor dependents, the case plan shall include
31 documentation that the county assisted the nonminor dependent
32 in obtaining his or her reports. The case plan shall include
33 documentation of barriers, if any, to obtaining the credit reports.
34 If the consumer credit report reveals any accounts, the case plan
35 shall detail how the county ensured the youth received assistance
36 with interpreting the credit report and resolving any inaccuracies,
37 including any referrals made for the assistance.

38 (17) For youth 14 years of age or older and nonminor
39 dependents, the case plan shall be developed in consultation with
40 the youth. At the youth's option, the consultation may include up

1 to two members of the case planning team who are chosen by the
2 youth and who are not foster parents of, or caseworkers for, the
3 youth. The child welfare ~~agency may~~, agency, at any time, may
4 reject an individual selected by the youth to be a member of the
5 case planning team if the agency has good cause to believe that
6 the individual would not act in the youth's best interest. One
7 individual selected by the youth to be a member of the case
8 planning team may be designated to be the youth's adviser and
9 advocate with respect to the application of the reasonable and
10 prudent parent standard to the youth, as necessary.

11 (18) For youth 14 years of age and older and nonminor
12 dependents, the case plan shall include both of the following:

13 (A) A document that describes the youth's rights with respect
14 to education, health, visitation, and court participation, the right
15 to be annually provided with copies of his or her credit reports at
16 no cost while in foster care pursuant to Section 10618.6, and the
17 right to stay safe and avoid exploitation.

18 (B) A signed acknowledgment by the youth that he or she has
19 been provided a copy of the document and that the rights described
20 in the document have been explained to the youth in an
21 age-appropriate manner.

22 (19) The case plan for a child or nonminor dependent who is,
23 or who is at risk of becoming, the victim of commercial sexual
24 exploitation, shall document the services provided to address that
25 issue.

26 (g) If the court finds, after considering the case plan, that
27 unsupervised sibling visitation is appropriate and has been
28 consented to, the court shall order that the child or the child's
29 siblings, the child's current caregiver, and the child's prospective
30 adoptive parents, if applicable, be provided with information
31 necessary to accomplish this visitation. This section does not
32 require or prohibit the social worker's facilitation, transportation,
33 or supervision of visits between the child and his or her siblings.

34 (h) The case plan documentation on sibling placements required
35 under this section shall not require modification of existing case
36 plan forms until the Child Welfare Services Case Management
37 System is implemented on a statewide basis.

38 (i) When a child is 10 years of age or older and has been in
39 out-of-home placement for six months or longer, the case plan
40 shall include an identification of individuals, other than the child's

1 siblings, who are important to the child and actions necessary to
2 maintain the child's relationship with those individuals, provided
3 that those relationships are in the best interest of the child. The
4 social worker or probation officer shall ask every child who is 10
5 years of age or older and who has been in out-of-home placement
6 for six months or longer to identify individuals other than the
7 child's siblings who are important to the child, and may ask any
8 other child to provide that information, as appropriate. The social
9 worker or probation officer shall make efforts to identify other
10 individuals who are important to the child, consistent with the
11 child's best interests.

12 (j) The child's caregiver shall be provided a copy of a plan
13 outlining the child's needs and services. The nonminor dependent's
14 caregiver shall be provided with a copy of the nonminor's TILP.

15 (k) On or before June 30, 2008, the department, in consultation
16 with the County Welfare Directors Association of California and
17 other advocates, shall develop a comprehensive plan to ensure that
18 90 percent of foster children are visited by their caseworkers on a
19 monthly basis by October 1, 2011, and that the majority of the
20 visits occur in the residence of the child. The plan shall include
21 any data reporting requirements necessary to comply with the
22 provisions of the federal Child and Family Services Improvement
23 Act of 2006 (Public Law 109-288).

24 ~~(l) The implementation and operation of the amendments to~~
25 ~~subdivision (i) enacted at the 2005-06 Regular Session shall be~~
26 ~~subject to appropriation through the budget process and by phase,~~
27 ~~as provided in Section 366.35.~~

28 ~~SEC. 13.~~

29 SEC. 29. Section 16501.4 is added to the Welfare and
30 Institutions Code, to read:

31 16501.4. (a) On or before September 30, 2016, county child
32 welfare agencies *and probation departments* shall develop and
33 implement policies and procedures that require social workers and
34 probation officers to do all of the following:

35 (1) Identify children receiving child welfare services, including
36 dependents or wards in foster care, nonminor dependents, and
37 youth receiving services pursuant to Section 677 of Title 42 of the
38 United States Code, who are, or are at risk of becoming, victims
39 of commercial sexual exploitation.

(2) Document individuals identified pursuant to paragraph (1) in the Child Welfare Services/Case Management System and any other agency record as determined by the county.

(3) Determine appropriate services for the child or youth identified pursuant to paragraph (1).

(4) Receive relevant training in the identification, documentation, and determination of appropriate services for any child or youth identified in paragraph (1).

(b) On or before July 1, 2016, county child welfare agencies and probation departments shall develop and implement specific protocols to expeditiously locate any child missing from foster care. These policies shall, at a minimum, require county social workers and probation officers to do all of the following:

(1) Describe the efforts used by county child welfare or probation staff to expeditiously locate any child or nonminor dependent missing from care, including, but not limited to, the timeframe for reporting the youth missing, the individuals or entities entitled to notice that the youth is missing, any required initial and ongoing efforts to locate the youth, and the plan to return the youth to placement. County welfare agencies shall also describe how the efforts described in this paragraph will be documented in the Child Welfare Services/Case Management System.

~~(1)~~

(2) Determine the primary factors that contributed to the child or nonminor dependent running away or otherwise being absent from care.

~~(2)~~

(3) Respond to factors identified in paragraph~~—(1)~~ (2) in subsequent placements, to the extent possible.

~~(3)~~

(4) Determine the child's or nonminor dependent's experiences while absent from care.

~~(4)~~

(5) Determine whether the child or nonminor dependent is a possible sex trafficking victim.

(c) In consultation with stakeholders, including, but not limited to, the County Welfare Directors Association of California, the Chief Probation Officers of California, former foster youth, the California Department of Education, the Department of Health

1 *Care Services, state and local law enforcement, and agencies with*
2 *experience serving children and youth at risk of commercial sexual*
3 *exploitation, the department shall develop model policies and*
4 *procedures to assist the counties to comply with this section.*

5 *(d) Notwithstanding the Administrative Procedure Act (Chapter*
6 *3.5 (commencing with Section 11340) of Part 1 of Division 3 of*
7 *Title 2 of the Government Code), the department may implement*
8 *this section through all-county letters or similar instructions from*
9 *the director until regulations are adopted.*

10 ~~SEC. 14.~~

11 *SEC. 30.* Section 16501.45 is added to the Welfare and
12 Institutions Code, to read:

13 16501.45. (a) ~~The~~ *To ensure compliance with federal reporting*
14 *requirements, including those of Public Law 113-183, the*
15 *Preventing Sex Trafficking and Strengthening Families Act, the*
16 *State Department of Social Services shall ensure that the Child*
17 *Welfare Services/Case Management System is capable of collecting*
18 *all of the following: following information:*

19 (1) The number of dependent children or wards in foster care
20 who were victims of commercial sexual exploitation before
21 entering foster care.

22 (2) The number of dependent children or wards in foster care
23 who became victims of commercial sexual exploitation while in
24 foster care.

25 (3) The number of dependent children or wards in foster care
26 who go missing, run away, or are otherwise absent from care and
27 were commercially sexually exploited during the time away from
28 placement.

29 (4) The number of dependent children or wards in foster care
30 who are at risk of becoming victims of commercial sexual
31 exploitation.

32 (5) *For children in foster care placed in group homes or*
33 *short-term residential treatment centers, the data identified in*
34 *Section 679b(a)(7)(A) of Title 42 of the United States Code.*

35 (6) *Data regarding children and nonminor dependents in foster*
36 *care who are pregnant or parenting, as required by Section*
37 *679b(a)(7)(B) of Title 42 of the United States Code.*

38 (b) County social workers and probation officers shall collect
39 the data identified in subdivision (a) consistent with data entry
40 instructions provided by the department.

1 (c) Upon the request of the department, a county child welfare
2 agency, county probation department, or entity operating a
3 program pursuant to an agreement with the department under
4 Section 10553.1, shall provide additional information or data
5 necessary for the department to comply with federal reporting
6 requirements.

7 SEC. 31. Section 16519.51 is added to the Welfare and
8 Institutions Code, to read:

9 16519.51. Notwithstanding any other law, preapproval training
10 for a resource family applicant and annual training for an
11 approved resource family shall include training on knowledge and
12 skills related to the application of the reasonable and prudent
13 parent standard for the participation of the child in age or
14 developmentally appropriate activities, as set forth in Section
15 1522.4 of the Health and Safety Code.

16 ~~SEC. 15.~~

17 SEC. 32. Except as required by Section 36 of Article XIII of
18 the California Constitution, no reimbursement is required by this
19 act pursuant to Section 6 of Article XIII B of the California
20 Constitution because this act implements a federal law or regulation
21 and results only in costs mandated by the federal government,
22 within the meaning of Section 17556 of the Government Code.